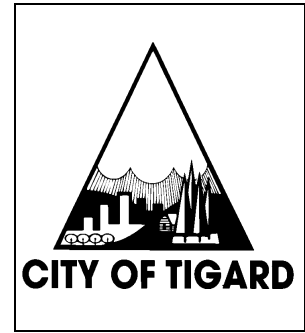

TIGARD CITY COUNCIL
BUSINESS MEETING

August 28, 2001 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Visitor's Agenda items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, Ext. 309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, x309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL BUSINESS MEETING
AUGUST 28, 2001

6:30 PM

- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss labor negotiations under ORS 192.660(1d). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- STUDY SESSION
 - > STRATEGIC PLANNING DISCUSSION
 - Staff Report: Administration Department

7:30 PM

1. BUSINESS MEETING
 - 1.1 Call to Order - City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items
2. VISITOR'S AGENDA (Two Minutes or Less, Please)
3. PROCLAMATIONS:
 - a. Proclamation - Disability Employment Awareness Month, October 2001
 - b. Proclamation - National Alcohol and Drug Addiction Recovery Month, September 2001
 - c. Proclamation - Undoing Racism Day, September 20, 2001
4. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
 - 4.1 Approve Council Minutes: June 26, 2001
 - 4.2 Local Contract Review Board
 - a. Award Contract for the Construction of Fiscal Year 2001-2002 Pavement Major Maintenance Program to Eagle-Elsner

- b. Award Contract for the Construction of Fanno Creek Trail – Segment 3 (Tiedeman Avenue to Woodard Park) to Tri-Mountain Excavating
 - c. Approve Purchase of Four 2002 Ford Victorias from Gresham Ford
- 4.3 Support Participation in the ICMA International Resource Cities Program – Resolution No. 01-_____

- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*

- 5. RECOGNITION OF NANCY IRWIN AND LARRY BECK FOR SERVICE ON THE LIBRARY BOARD
 - Mayor Griffith
- 6. CONSIDER APPROVING THE NEW TIGARD LIBRARY CONSTRUCTION COMMITTEE'S RECOMMENDED SITE FOR THE PROPOSED NEW LIBRARY
 - a. Staff Report: Library Staff
 - b. Council Discussion, Questions, Comments
 - c. Council Motion: Should the Council approve the recommended site for the new library?
- 7. HEAR AN INITIAL PROGRESS REPORT FROM THE TRANSPORTATION FINANCING STRATEGIES TASK FORCE
 - a. Staff Report: Engineering Staff
 - b. Council Discussion, Questions, Comments
- 8. QUASI-JUDICIAL PUBLIC HEARING – CONSIDER AN ORDINANCE VACATING APPROXIMATELY 11,702 SQUARE FEET OF PUBLIC RIGHT OF WAY ON SW BEVELAND STREET, IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2001-00002)

REQUEST: The applicant is requesting that the City of Tigard vacate an unused portion of public right of way on SW Beveland Street, west of SW 72nd Avenue. Southwest Beveland Street west of SW 72nd Avenue has been relocated south to align directly with SW Beveland Street east of SW 72nd Avenue. The new alignment was constructed across tax lots 2S101AB-02705, 2S101AB-02706 and 2S101AB-02707, which are owned by Lowe's Hardware. The purpose for the relocation was to ensure better traffic flow at the SW Beveland/SW 72nd intersection. The land needed for that improvement and the associated right of

way was dedicated by Lowe's Hardware to the City of Tigard. As a result of the relocation, the old right of way for SW Beveland Street has effectively been abandoned. **LOCATION:** The section of SW Beveland Street public right of way, which lies west of SW 72nd Avenue. Date request was filed: May 15, 2001

- a. Open Public Hearing
- b. Declarations or Challenges
- c. Staff Report: Community Development Staff
- d. Public Testimony: Proponent, Opponents, Rebuttal
- e. Staff Recommendation
- f. Council Discussion, Questions, Comments
- g. Close Public Hearing
- h. Council Consideration: Ordinance No. 01 - _____

9. CONSIDERATION OF A RESOLUTION ADOPTING THE FINAL ORDER APPROVING THE BLUE HERON PARK SUBDIVISION (SUB2001-00001, ZON2001-00002, SLR2001-00003, VAR2001-0002)

On June 11, 2001, the Planning Commission denied a request for approval of an 18-lot subdivision on 4.15 acres. The lots are to be developed with attached single-family homes. Lot sizes within the development average just over 3,800 square feet. Development is to be clustered on the west side of the development site, allowing for the preservation and enhancement of the pond, wetland, and stream area on the eastern portion of the property. A sensitive lands review is required for the development due to the presence of steep slopes, a wetland, and a natural drainageway on the site. On June 22, 2001, an appeal was filed regarding the Planning Commission's denial of the project. On August 14, 2001, the Council held a public hearing on the appeal; the proposed resolution adopting the Final Order is now before the Council. **LOCATION:** 12450 SW Walnut Street; WCTM 2S103BC-03900. The project site is located on the south side of SW Walnut Street, opposite of SW 124th Avenue and west of SW 121st Avenue. **ZONE:** R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally. **REVIEW CRITERIA BEING APPEALED:** Community Development Code Chapter 18.390.

- a. Staff Report: Community Development Staff
- b. Council Discussion, Questions, Comments
- c. Council Consideration: Resolution No. 01-_____

10. PUBLIC HEARING - CONSIDER A ZONE ORDINANCE AMENDMENT TO EXEMPT CERTAIN EXISTING BUILDINGS ABUTTING MAIN STREET FROM ADDITIONAL OFF-STREET PARKING IN CERTAIN CIRCUMSTANCES (ZOA2000-00004), AMENDING CHAPTER 18.765 OF THE TIGARD COMMUNITY DEVELOPMENT CODE

The City of Tigard is requesting approval of a Zone Ordinance Amendment to allow existing buildings directly abutting Main Street to be exempt from having to add additional off-street parking for a change of use. However, construction of new buildings and entertainment uses abutting Main Street will be required to meet the off-street parking standards according to Table 18.765.2 (Minimum and Maximum Required Off-Street Vehicle and Bicycle Parking Requirements) in the Tigard Community Development Code. **LOCATION:** All properties abutting SW Main Street. **ZONE:** CBD: Central Business District. The CBD zoning district is designed to provide a concentrated central business district, centered on the City's historic downtown, including a mix of civic retail and office uses. Single-family attached housing, at a maximum density of 12 units/net acre, equivalent to the R-40 zoning district, are permitted outright. A wide range of uses, including but not limited to adult entertainment, utilities, facilities with drive-up windows, medical centers, major event entertainment and gasoline stations, are permitted conditionally. **APPLICABLE REVIEW CRITERIA:** Statewide Planning Goals 1, 2, 5 and 9; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2, 2.1.3 and 5.3; and Community Development Code Chapters 18.380, 18.390 and 18.765.

- a. Open Public Hearing
- b. Staff Report: Community Development Department
- c. Public Testimony
- d. Staff Recommendation
- e. Council Discussion, Questions, Comments
- f. Close Public Hearing
- g. Council Consideration: Ordinance No. 01 - _____

11. CONSIDER AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE REGARDING PERMIT ISSUANCE CONDITIONS FOR OVERSIZED LOADS

- a. Staff Report: Police Staff
- b. Council Discussion, Questions, Comments
- c. Council Consideration: Ordinance No. 01 - _____

12. CONSIDER AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE TO CLARIFY PROCEDURES FOR LIBRARY BOARD MEMBER APPOINTMENT AND TERMS, AND THE PROCEDURE FOR EXCLUSION FROM THE LIBRARY
 - a. Staff Report: Library Staff
 - b. Council Discussion, Questions, Comments
 - c. Council Consideration: Ordinance No. 01 - _____
13. DISCUSS PROVISIONS OF THE TIGARD MUNICIPAL CODE CONCERNING THE BUILDING APPEALS BOARD
 - a. Staff Report: Community Development Staff
 - b. Council Discussion, Questions, Comments
14. COUNCIL LIAISON REPORTS
15. NON AGENDA ITEMS
16. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
17. ADJOURNMENT

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AGENDA ITEM # Study Session
FOR AGENDA OF 8/28/01

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Strategic Planning Discussion

PREPARED BY: Bill Monahan DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

In a study session format, staff is returning to Council to discuss the potential prioritization of the major funding issues that face the community over the next several years. The questions before Council include, 1) is Council in agreement with the priorities noted, 2) are other issues either present or anticipated that should be added to the list or replace other issues presently noted, and 3) are the preliminary dollar figures assigned about right, too high, or too low?

STAFF RECOMMENDATION

Staff recommends that the City Council engage in a discussion with staff about the strategic plan issues, determine if the priority list developed is acceptable for now or suggest changes, and select a future meeting date when the list should be revisited.

INFORMATION SUMMARY

Over the past several months, the city Executive Staff and City Council have identified and discussed several financing issues that will require action by the community over the next several years. The issues are primarily impacted by the availability of general fund revenues to provide improved public facilities and programs. In recent years, the City has been unsuccessful in attempts to obtain voter approval of money measures. A plan to address the community financial needs in a systematic manner would appear to increase the likelihood of success while addressing the most significant needs first.

On May 15, 2001, in a workshop setting, Council gave input to the preliminary list of issues identified by staff. Council asked the Executive Staff to continue working on the question and attempt to further refine the timelines, priorities, and financial need estimates. The staff has completed that effort and prepared a list showing issues that likely should be addressed in 2002 and 2004 while noting that several other issues loom "on the horizon" which must be taken into account.

Council should discuss the work product to date and provide additional input.

OTHER ALTERNATIVES CONSIDERED

Address each individual municipal financial issue independently as it comes before City Council.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Several of the issues being reviewed are mentioned in the Tigard Beyond Tomorrow document. Specifically, the need to evaluate the need to construct a new library is mentioned, as well as the need to identify and develop funding resources to address growing transportation and traffic needs are mentioned in the visioning document.

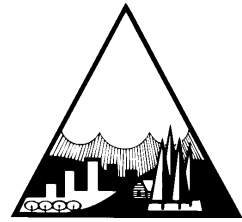
ATTACHMENT LIST

1. Strategic Plan Memo – August 21, 2001
2. May 15, 2001 Council Agenda Item Summary - Strategic Planning of Funding for Library, Transportation, Recreation and Public Facility Needs/General Fund.
3. Minutes of the May 15, 2001 Council discussion of the agenda topic
4. Power Point presentation given at the May 15 City Council workshop
5. Strategic Planning List developed by the Executive Staff since May 15, 2001.

FISCAL NOTES

Each component of the strategic plan has a financial consequence. The Strategic Planning List shows preliminary estimates of cost.

MEMORANDUM
CITY OF TIGARD, OREGON



TO: Honorable Mayor and City Council Members

FROM: Bill Monahan

DATE: August 21, 2001

SUBJECT: Strategic Plan

On May 15, 2001, in a workshop setting, City Council discussed the major funding issues which are pending for the next five years. Following a financial forecast presentation by Finance Director Craig Prosser, I reviewed election requirements for future bond issues, the potential election dates for future actions, and some of the "knowns" that are in place.

Council identified a series of issues which face the community. The consensus of council was that the library was the highest priority requiring attention. An election for a construction bond likely will be placed before voters in 2002. Council also suggested that transportation improvement needs were high on the list.

Council directed the City Manager and executive staff to review the list of issues which were identified and return with additional timelines and funding information, if known. The executive staff met on a couple occasions after the May workshop. A list of issues, prioritized as to a time frame of 2002 or 2004, was developed.

The attached Strategic Planning List was developed by the executive staff. At this point, council's review of the issue list and acknowledgement that the issues represent the focus of City Council and staff energies is sufficient. The list then will be consulted periodically to determine if adjustments to the schedule and priorities are appropriate.

att

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Strategic Planning of Funding for Library, Transportation, Recreation & Public Facility Needs/ General Fund.

PREPARED BY: William A. Monahan DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Council should have a discussion of the major funding issues which are pending requiring Council review and decisions over the next few years. Since the resources that are available to the community are limited, some prioritization of needs should occur as well as scheduling potential bond measures.

STAFF RECOMMENDATION

Staff recommends that the City Council discuss the major funding issues facing the community and determine a tentative schedule for addressing these needs.

INFORMATION SUMMARY

The City has several financial issues facing it in the next several years related to the availability of general fund revenue and the need for providing improved public facilities and programs. In recent years, the City has failed to obtain voter approval of both a public facility bond in 1998 and a transportation funding package in 2000. In addition, voters rejected the Atfalati Recreation District proposal in 2000. Presently, the City Council, staff, and citizen committees are evaluating the need and funding options for a new library facility as well as transportation improvements. Meanwhile, the Atfalati Recreation District or some other entity may consider seeking funding at some time for recreation programs and facilities.

With several funding issues facing the City, it is important that the City Council be briefed on the City's financial situation, possible funding sources, and the potential funding needs for a new library and road improvements. Each of the issues impacts the other. In addition, because the City has not been successful in passing voter approved bonds to finance major improvements, there is a need for a coordinated effort and planned out scheduling of any financial package that goes to the voters.

On May 15 staff will lead a discussion with Council on the information presently known on the funding needs for a new library, trends and costs related to transportation improvements under the City's jurisdiction, and other general fund related issues. Craig Prosser will brief the Council on the Financial Plan and the options available to the City to reverse the direction of the general fund. A local option levy, as allowed by Oregon law, should be explored as an option to provide additional general fund dollars for City operations in future years.

Based upon the discussion on May 15, the Council and staff should continue to prepare a prioritization and sequence of activities which can then be used to guide the plans and actions of Council, advisory groups, and staff. For instance, if the Council chooses to place a library facility bond on the ballot in 2002, ahead of other funding requests, what would the logical next package entail and when would it be considered by the voters? Based upon the direction given by Council, staff can return with alternatives and information on the impact that the alternatives have on the City's financial position.

Citizen members of the Budget Committee will be invited to attend the workshop session and participate. While no final decisions on the specifics of a strategic plan for funding are necessary at this time, if direction is given, better long-range planning can result.

OTHER ALTERNATIVES CONSIDERED

Address each municipal funding issue independently as it comes before Council.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

ATTACHMENT LIST

FISCAL NOTES

Once a final decision is made on a strategic plan, each individual element of the plan will have fiscal consequences.

Excerpt of Council Minutes – May 15, 2001
Attachment 3

5. STRATEGIC PLANNING OF FUNDING FOR THE LIBRARY, TRANSPORTATION, RECREATION AND PUBLIC FACILITY NEEDS/GENERAL FUND

City Manager Monahan introduced this agenda item. A copy of the PowerPoint presentation illustrating the highlights of the information offered to the City Council is on file with the City Recorder.

Finance Director Prosser reviewed the financial forecast. City Manager Monahan reviewed the election requirements, potential dates, and “realities.”

Discussion followed, with key issues identified (brainstormed) as followed:

1. Library
2. Transportation
 - Elements: major collectors; alternatives to Pacific Highway 99
 - Operations and maintenance of roads
3. Local Operating Levies
4. Washington Square Implementation
 - Transportation
 - Open space
 - Drainage
5. Recreation
 - Programs
 - Facilities
6. Water Supply Revenue Bond
7. Downtown Redevelopment
8. City Facilities
 - Renovate library building for offices
 - Renovate City Hall offices
 - (possibly from funds set aside now for the Library)
 - Determine whether feasible or desirable to purchase the water building
 - Relocate public works
 - Determine whether to sell the current Public Works yard
 - Extend life of police building by utilizing the “Niche” building
9. Parks and Trails
 - Acquisition
 - Development
10. Sewer Extension Program
11. Commuter Rail

12. Bus System and Shelters
13. Sidewalks
14. Annexation – Operating and Equipment Costs
15. Urban Growth Boundary Expansion
16. Social Services
17. Affordable Housing
18. Population Diversity
19. Funding Mechanism for Development – Infrastructure
 - Downtown
 - Triangle
 - Washington Square


City staff will review the above list and come back to the City Council at its June 19 workshop meeting with timelines (trigger points) and funding information.

Councilor Patton noted the urgency to move forward on the library in light of the tight timelines.

Council consensus was that the library would be addressed first. Components of transportation could also be addressed as a high priority. The Transportation Financing Strategies Task Force is not ready to make a proposal, according to City Engineer Duenas.



STRATEGIC PLAN

City of Tigard



Issues

- Public facility needs are growing:
 - Library
 - Major Transportation Improvements
 - roads
 - intersections
 - rail (commuter)
 - intra-city bus service
 - City Offices



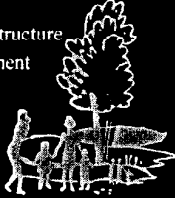
May 2001

Strategic Plan

2

Issues

- Community needs are growing:
 - Downtown redevelopment
 - Washington Square Plan infrastructure
 - Parks acquisition and development
 - recreation needs



May 2001

Strategic Plan

3

Issues

- Funding for existing programs is growing more scarce
- To address needs requiring construction will require new funding
- Recent voter reaction to City bond measures have been negative
- Competition for taxpayer approval of levies and bonds is growing

May 2001

Strategic Plan

4

- Our financing situation requires attention as:
 - Our forecasts show the general fund requires attention
 - Our ability to borrow for capital facilities is limited by voter approval
 - Fee-based funds require regular review and update
 - Demand for services is growing



May 2001

Strategic Plan

5

Council has established several goals which require action and major funding. Not all can be completed, or planned for, without decisions being made on priority and choice of dates that measures will be placed before the voters.

May 2001

Strategic Plan

6

Tonight's Discussion

- Craig Prosser will discuss the Financial Forecast
- Issues will be presented
- Initial direction should be given
- Future steps can be discussed

May 2001

Strategic Plan

7

Financial Forecast

City of Tigard
FY 2001-02 Proposed Budget

Financial Plan Assumptions

- Revenues
 - Past trends
 - Expected changes in consumption
 - Projected economic activity

May 2001

Strategic Plan

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Financial Plan Assumptions

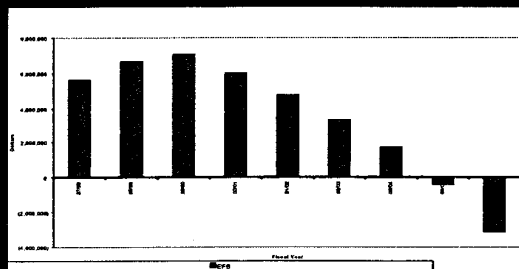
- Expenditures
 - Personal Services - 5% plus or minus projected position changes
 - Materials & Services - 3% plus new requests, less one-time expenditures
 - Capital Outlay - 3% plus new equipment, less non-recurring equipment
 - Capital Improvements - Based on CIP

May 2001

Strategic Plan

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General Fund

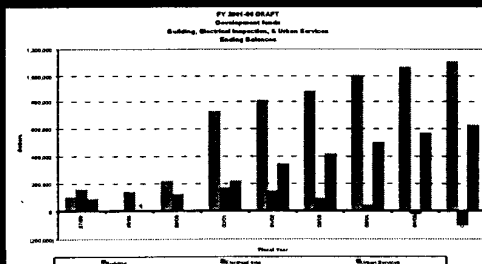


May 2001

Strategic Plan

11

Development Funds

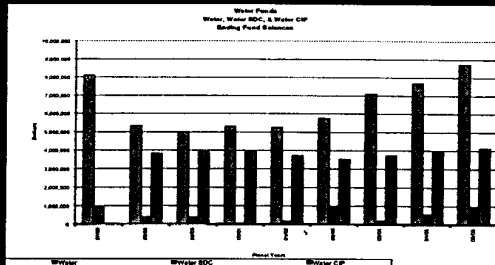


May 2001

Strategic Plan

12

Water Funds

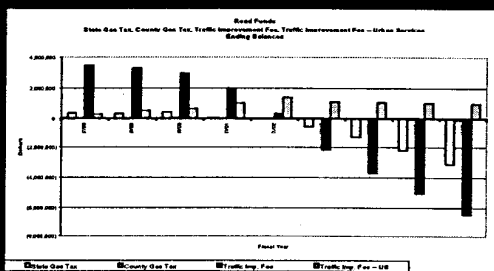


May 2001

Strategic Plan

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Road Funds

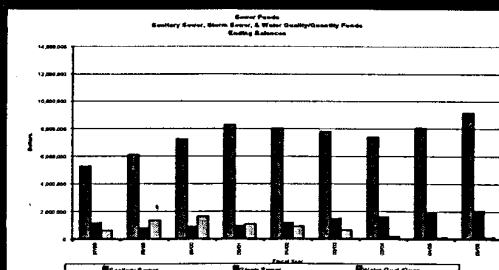


May 2001

Strategic Plan

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Sewer Funds



May 2001

Strategic Plan

15

- Issues:

- Election requirements
- Election dates
- Realities



May 2001

Strategic Plan

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- Election requirement

- With the exception of November elections in even numbered years, a majority vote of registered voters must vote and a majority of those who vote must approve any bond. Otherwise the bond is subject to property tax limitations.



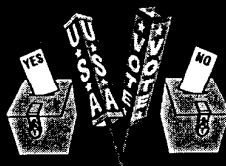
May 2001

Strategic Plan

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- Election dates

- May 2002
- November 2002
- May 2004
- November 2004
- May 2006
- November 2006



May 2001

Strategic Plan

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- Realities

- All taxing districts require additional funds to address growing needs
- Many measures appear on the ballot together
- November elections coincide with local elections for Council
- Our two last bonds (Nov. 1998, Nov. 2000) failed
- Our needs are growing, thus the funding to be sought increases

May 2001

Strategic Plan

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Successful Elections/ Voter Approval

To receive voter approval to obtain funding for needed projects, these steps, among others are needed:

May 2001

Strategic Plan

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Successful Elections/ Voter Approval Steps



- Educate and inform the public of:
 - Community need
 - Benefits of the project
 - Cost efficiency of the project

May 2001

Strategic Plan

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Successful Elections/ Voter Approval Steps

- Demonstrate how the ballot measure will improve the community and deliver facilities and programs that the citizens have requested



May 2003

Strategic Plan

22

Successful Elections/ Voter Approval Steps

- Demonstrate that funding from bonding is the least necessary to complete the project, showing:
 - Additional funding from other sources
 - Reuse of facilities, if applicable, that are being replaced
 - How operating funds will be available

May 2003

Strategic Plan

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Successful Elections/ Voter Approval Steps

- Require projects which:
 - Are well thought out
 - Address defined needs
 - Demonstrate efficient use of funds
 - Are easily understood by voters
 - Are supported by a broad base of community groups, organizations, etc.

May 2003

Strategic Plan

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Strategic Plan

For Tigard to move ahead successfully to obtain voter approval of costly public improvements, we must:

May 2001

Strategic Plan

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Strategic Plan

- Select projects which address the needs of the public
- Scale the project to need considering
 - Cost
 - Present demand for the service
 - Future demand
 - When future expansion is feasible



May 2001

Strategic Plan

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Strategic Plan

- Continue to demonstrate that we use funding wisely to deliver service day to day
- Build trust in local government
- Demonstrate that we have a vision for Tigard, showing how the “pieces fall into place.”

May 2001

Strategic Plan

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Present Need

- To determine an order of the projects requiring immediate attention
- To choose an initial project to be placed before the voters for funding approval
- To commit to educate the public on the merits of the project
- To choose an election date for the initial project

May 2001

Strategic Plan

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Future Need

- Meet periodically to continue the process of identifying an order for future funding packages
- To prepare the groundwork for future elections
- Order the projects considering changing needs, opportunities, and citizen support
- Involve the public, report on progress, and celebrate our successes

May 2001

Strategic Plan

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2002 – 2004 Strategic Planning List

2002

- ◆ May – November, Library, \$17 million, City
- ◆ Water Revenue Bond, City or IWB participants (Referred by voters)
- ◆ Transportation User Fee – Creating fee/maintenance, City
- ◆ November -- Youth Activities/Operating Funds (Facility and/or Program), City, Recreation District, or other

Horizon:

- ◆ Discussion of Funding for Washington Square Infrastructure
 - Options: Tax Increment Financing
 - Private Financing through Impact Fee
- ◆ General Fund Condition
 - Evaluate fees on a regular basis
 - Consider a local option levy to supplement general fund revenues to continue providing service at established levels (see 2004)
- ◆ Additional Water Supply – (Studies, agreements, infrastructure connections, major capital)
- ◆ Plan for and make decisions on reuse of library, remodeling of office space in library and City Hall
- ◆ Annexation of Bull Mountain Study
- ◆ Parks – Acquisition, development, maintenance
- ◆ Property Sale – Sell Ash Avenue parcels to help offset library costs

2004

- ◆ Transportation Bond -- \$12 million
- ◆ General Fund concern – Operating Levy? Include consideration of library staffing and programs for the new library.
- ◆ Youth Activity – Capital Funding Request?
- ◆ Water -- \$4 million for improvements (Estimated by Ed Wegner)
- ◆ Renovate City Facilities:
 - Using up to \$3 million set aside in the capital facilities account over four budget years.
- ◆ Buy Water Building (Remaining portions from our partners)
- ◆ Moving Expenses
- ◆ Washington Square Funding

Horizon:

- ◆ Recreation Programs/Facilities -- \$?

PROCLAMATION

Disability Employment Awareness Month

WHEREAS, 20% of the population of the United States of America is comprised of people with disabilities, and

WHEREAS, current studies place unemployment among the country's people with disabilities at more than 70%, and

WHEREAS, more than two-thirds of adults with disabilities in this country desire to work but cannot find employment, and

WHEREAS, the Americans with Disabilities Act provided civil rights protection for America's 49,000,000 persons with disabilities, and

WHEREAS, America's shrinking labor force requires employers to utilize untapped human resources, such as persons with disabilities,

NOW THEREFORE BE IT RESOLVED THAT I, James E. Griffith, Mayor of Tigard, on behalf of the entire City Council, do hereby proclaim:

The month of October, 2001, is designated as Disability Employment Awareness Month in the City of Tigard

And I, Mayor James E. Griffith, call upon the residents of the City of Tigard to observe the month by learning about people with disabilities, their strengths, abilities, and programs which serve their needs.

Dated this _____ day of _____, 2001

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

James E. Griffith, Mayor
City of Tigard

Attest:

City Recorder

PROCLAMATION

National Alcohol and Drug Addiction Recovery Month

WHEREAS, in the past 20 years medical science has made great strides in learning about substance use and the nature of addiction; and

WHEREAS, addiction is a chronic, relapsing illness that involves a number of brain chemistry disorders. Treatment for addiction is as effective as treatments for other chronic medical conditions, such as diabetes and high blood pressure; and

WHEREAS, substance use and addiction result in huge societal and economic costs. It was recently estimated that the cost of untreated addiction in the United States is \$276 billion a year. Clearly, the toll substance abuse takes on the family and friends of the individual battling with addiction is immeasurable. But recovery is possible. Every day in every part of the United States, men, women, and youth are entering treatment and beginning the road to recovery and families seek hope and recovery in support programs and counseling; and

WHEREAS, *National Alcohol and Drug Addiction Recovery Month* celebrates the tremendous strides taken by individuals who have undergone successful treatment, families in recovery, and recognizes those in the treatment field who have dedicated their lives to addiction treatment and recovery and those they directly or indirectly impact. It embraces the theme *iWe Recover Together: Family, Friends, and Community*; and

WHEREAS, The U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment invite all residents of the City of Tigard to participate in *National Alcohol and Drug Addiction Recovery Month*,

NOW THEREFORE BE IT RESOLVED THAT I, Mayor James Griffith of the City of Tigard, Oregon, do hereby proclaim the month of September, 2001 as

National Alcohol and Drug Addiction Recovery Month

in Tigard, Oregon and encourage all residents to promote the benefits of drug and alcohol addiction treatment and recovery and to support community treatment programs.

Dated this day of , 2001.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

James Griffith, Mayor
City of Tigard

Attest:

City Recorder

PROCLAMATION

Undoing Racism Day

WHEREAS, by Act of Congress of the United States dated July 2, 1964, the Civil Rights Act of 1964 was adopted banning discrimination because of a person's color, race, national origin, religion, or sex; and

WHEREAS, by Act of Congress of the United States dated December 6, 1865, the 13th Amendment of the Constitution of the United States was adopted abolishing slavery; and

WHEREAS, by Act of Congress of the United States dated July 9, 1868, the 14th Amendment of the Constitution of the United States giving all persons born or naturalized in the United States the right to due process and equal protection under the law; and

WHEREAS, by resolution of the National League of Cities, we declare racism unjust and advocate equal rights for all;

NOW THEREFORE BE IT RESOLVED THAT I, James E. Griffith, Mayor of Tigard, on behalf of the entire City Council, do hereby proclaim:

September 20, 2001 as

Undoing Racism Day

in the City of Tigard, Oregon

and urge all citizens to join together today for the second annual "Undoing Racism Day" to reaffirm our commitment to ensure equality and freedom for all the people regardless of race, religion, sexual preference, or gender.

Dated this _____ day of _____ 2001.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

James E. Griffith, Mayor
City of Tigard

Attest:

City Recorder

MINUTES
TIGARD CITY COUNCIL BUSINESS MEETING
JUNE 26, 2001

Mayor Griffith called the meeting to order at 6:32 p.m.

Council Present: Mayor Griffith, Councilors Dirksen, Moore, Patton, and Scheckla.

- STUDY SESSION

- PAPERLESS PACKET TRAINING

The Council received training on how to navigate through their electronic paperless packets until 7 p.m.

- CONSOLIDATION ISSUES IN LAW ENFORCEMENT

Police Chief Ron Goodpaster updated Council with regard to talks about consolidating law enforcement in Washington County. He noted that this has been a subject discussed for about the last 20 to 25 years. Mr. Ron Massey has advised Mr. Goodpaster that this is a community issue on which he would like to base his campaign for a congressional seat. Mr. Goodpaster reviewed the Council packet materials including several newspaper articles that are on file with the City Recorder. Mr. Goodpaster noted that the unions support consolidation. Mr. Goodpaster noted that he has three concerns about consolidation and whether these items have been addressed:

1. service levels
2. cost
3. local control (cost, equipment)

He advised he did not believe that the supporter of this idea had thought out all ramifications. In response to a question from Councilor Patton who said that she did not understand why there was support from the police unions, Mr. Goodpaster said he understands that the unions believe that there is currently duplication and overlapping services that could be addressed, and consolidation would offer an opportunity to lower costs. Mr. Goodpaster noted areas where certain functions have been consolidated and have worked well including police dispatching services and inter-agency teams

such as the swat team. He also noted that there are mutual-aid boundaries that were working out well and that a consolidated record system is being considered. Discussion followed with regard to the consolidated fire protection district, Tualatin Valley Fire and Rescue (TVF&R). Mr. Goodpaster noted that it is not known how the structure would be proposed. He cited the differences in activity levels from community to community. If patterned after the TVF&R structure, the wages would be similar throughout the region.

City Manager Monahan noted the purpose of bringing this discussion to the Council at this time is to raise the subject for further thought and to start considering what details need to be worked out. Mr. Goodpaster advised he has researched instances where consolidation has occurred. He noted that Oregon funds police services differently than any other location in the United States. He advised that this is an issue that may be referred to the voters.

➤ ADMINISTRATIVE ITEMS

- Council agreed to meet with Metro representatives regarding the 2040 Metro Plan on July 30, 2001.
- A memo on Council groundrules will be discussed at the July 10, 2001, Study Session.
- Kows for Kids on Parade is a fundraising effort for youth. The City has been asked to contribute to this fundraiser. After brief discussion, Council agreed that these types of requests should be submitted and addressed during the budget process.
- BAPS Temple – City Manager Monahan noted there was a hearing last night on this land use issue. He advised that the record had been left open for three weeks for the applicant to respond to issues raised during the hearing. Mr. Monahan cautioned that this item could come to the Council on appeal and, therefore, Council members should be mindful of exparte contacts. Councilor Scheckla advised that he attended the hearing last night.

1. BUSINESS MEETING

- 1.1 The meeting of the Tigard City Council & Local Contract Review Board was called to order by Mayor Griffith at 7:39 p.m.
- 1.2 Council Present: Mayor Griffith, Councilors Dirksen, Moore, Patton, and Scheckla
- 1.3 Pledge of Allegiance

- 1.4 Council Communications & Liaison Reports – None.
- 1.5 Call to Council and Staff for Non-Agenda Items – None.

2. VISITOR'S AGENDA

Mr. Jack Polans, 16000 SW Queen Victoria Place, King City, Oregon, advised of his concerns with an earlier discussion in the Study Session with regard to the consolidation of the police functions. He expressed concern about the “power” held by police agencies.

3. CONSENT AGENDA:

Councilor Scheckla requested that items 3.8 and 3.9 be pulled from the Consent Agenda, as he would like to vote “No” on these items.

Motion by Councilor Scheckla, seconded by Councilor Patton, to approve the Consent Agenda minus items 3.8 and 3.9 as follows:

- 3.1 Approve the Transfer of Funds from the Public Works Operating Appropriation to the General Fund Capital Improvement Program Appropriation for the Police HVAC Replacement Project (Budget Amendment #9) – Resolution No. 01 - 34
- 3.2 Approve a Four-Year Extension of an Intergovernmental Agreement with Tualatin Valley Fire and Rescue for Preventative Health and Disease Services
- 3.3 Authorize the City Manager to Sign a Contract with the Oregon Parks and Recreation Department Accepting \$50,000 in Grant Funds for the Construction of the Tiedeman/Woodard Park Segment of the Fanno Creek Trail
- 3.4 Adopt a Resolution Acknowledging 20 Years of Excellent Legal Services Rendered by the Ramis, Crew, Corrigan and Bachrach Law Office – Resolution No. 01- 35
- 3.5 Approve a 3.5% Annual Cost of Living Salary Adjustment for Management/Supervisory/Confidential Group Employees to Be Effective July 1, 2001 – Resolution No. 01 - 36
- 3.6 Adopt a Resolution Reappointing George Burgess and Sydney Sherwood to the Budget Committee, Reappointing Susan Kasson to the Library Board, Appointing Gary Johnson and Jan Thenell to the Library Board, and Appointing Jeffrey Lawton as an Alternate to the Library Board – Resolution No. 01 - 37
- 3.7 Local Contract Review Board

- a. Award Construction of Cook Park Phase I, including Construction of the Wetland Gazebo Area, to Northwest Earthmovers, Inc.
- 3.10 Consider A Resolution Authorizing the City Manager to Submit an Application for The Oregon Economic and Community Development Department for a Loan to Finance Implementation of the Cook Park Master Plan – Resolution No. 01-_40 (This item was moved. It was formerly listed in the business meeting as Agenda Item No. 7.)

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

Discussion followed. There was some concern on item 3.7; therefore the Council would also discuss this item further.

Motion by Councilor Moore, seconded by Councilor Patton, to approve items 3.8 and 3.9.

The motion was approved by majority vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	No

Discussion followed on agenda item 3.7, which was the bid award for Cook Park Expansion Phase 1. Property Manager John Roy from the Public Works department reviewed the staff report and the items considered with the bid documents. The successful bidder, Northwest Earthmovers, Inc., submitted a bid with a base bid being \$575,553.30 and an additive bid (to construct a wetland gazebo area) of \$60,000.00.

Representatives from Crestview Construction, Inc. contested the award of bid citing the fact that they had a lower base bid. Mr. Roy advised that under the purchasing rules for the City of Tigard, the City is allowed to award a bid based on the total bid amount. City Attorney Ramis confirmed that there was no violation of the bid process. Representatives from Crestview suggested that the City could award two

bids with one contractor to do the base bid and one contractor to perform the additive work. City Attorney Ramis noted that the City reserves the right to make the choice solely on the base bid or the base bid plus the additive bid. The controlling authority for this bid award is the City of Tigard ordinances and Mr. Ramis said he supports the conclusions of staff with regard to the recommendation that the bid be awarded to Northwest Earthmovers, Inc.

Councilors Moore and Patton advised that they believed the rules are clear with regard to the bid award and that the lowest total bid was received from Northwest Earthmovers, Inc. Councilor Scheckla advised that he thought this language should be clarified for future interpretation. City Attorney Ramis advised that he thought that the rules governing this action were clear.

Motion by Councilor Moore, seconded by Councilor Patton, to award the bid for Cook Park Expansion Phase 1 to Northwest Earthmovers, Inc.

The motion was approved by majority vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Abstained

4. INTRODUCTION OF BUDGET COMMITTEE MEMBERS GEORGE BURGESS AND SYDNEY SHERWOOD, LIBRARY BOARD MEMBERS SUSAN KASSON, GARY JOHNSON AND JAN THENELL, AND LIBRARY BOARD ALTERNATE JEFFREY LAWTON

Mayor Griffith introduced Sydney Sherwood, Susan Kasson, and Jeffrey Lawton who were recently appointed to Board positions. The Mayor distributed City of Tigard pins to the newly appointed Board and Committee members.

5. UPDATE ON WATER SUPPLY

Public Works Director Ed Wegner introduced Dennis Koellermeier, newly hired Utility Manager for the City of Tigard.

Mr. Wegner advised that the City of Tigard is working to assure an adequate water supply. He noted that Portland and the metro water suppliers are working together.

Mr. Koellermeier reviewed the status of the current activities and projects relating to short-term water supply issues including conservation efforts, improvements to the distribution system and discussions of new sources with Tigard's suppliers. This information is summarized in the staff report, which is on file with the City Recorder.

The City of Tigard should be able to meet this summer's demands; however, the City needs to be resourceful with regard to conservation. It was noted that Tigard citizens have been conserving. Even though the population has increased, water usage has been kept under control. In response to a question from Mayor Griffith, Public Works Director Wegner noted that water is obtained from the City of Portland and supplemented by existing wells, a supply from Tualatin Valley Water District, and storage. Mayor Griffith urged that the staff continue to remind people to conserve water. Articles have appeared in the Cityscape and a weekly column has been planned for the *Tigard Times*.

In response to a question from Mayor Griffith, Mr. Wegner advised that there has been no evidence of lead in Tigard's water system. He referred to the Portland experience and noted that some of the older homes in Portland have lead solder in water pipes, which places lead into the water. In response to a question from Councilor Scheckla, Mr. Wegner advised that the Portland water rates are based on a formula that charges the City a penalty with what is termed a "peaking" factor.

6. PUBLIC HEARING (QUASI-JUDICIAL) – CONSIDER THE VACATION OF APPROXIMATELY 9,544 SQUARE FOOT PORTION OF PUBLIC RIGHT OF WAY KNOWN AS SW 67TH AVENUE (VAC2001-00001)

The applicant requested that the City Council vacate a portion of the public right of way on SW 67th Avenue. The right of way lies to the south of SW Clinton Street and to the north of the SW Haines Road southbound off-ramp. This portion of the right-of-way has never been improved and "leads to no where", as it dead-ends into the off-ramp. The applicant intends to construct a two-story office building of 24,000 square feet adjacent to SW 67th Avenue and needs the extra square footage for an entrance into the property.

Appropriate agencies have been contacted for comments and no objections were received. These include utility companies and emergency service providers.

- a. Public Hearing was opened by Mayor Griffith.
- b. Declarations or Challenges – Mayor Griffith asked the following questions:

- Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits?
- Have all members familiarized themselves with the application?
- Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council?

Councilor Scheckla noted that he is familiar with the location. All Council members indicated that they familiarized themselves with the application. There were no challenges.

c. Community Development Director Hendryx reviewed the staff report, which is on file with the City Recorder.

d. Public Testimony -- Mayor Griffith read the following statement:

- For all those wishing to testify, please be aware that failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and parties an opportunity to respond to the issue will preclude an appeal to the Land Use Board of Appeals on this issue. Testimony and evidence must be directed toward the criteria described by staff or other criteria in the plan or land use regulation, which you believe, apply to the decision.

- Proponents

- Gordon Root, 19935 SW Cipole Road, Sherwood, Oregon, noted that he is the applicant for this vacation proposal. Mr. Root described the configuration for a proposed development should this vacation of right of way be granted. He noted that adjoining property owners had supplied him with statements of consent in support of his vacation request.

In response to a question from Councilor Scheckla, Mr. Root advised that six people attended a recent neighborhood meeting where he described what he was proposing to do at this property.

e. Staff Recommendation: Community Development Director recommended approval of the proposed vacation.

f. Mayor Griffith closed the Public Hearing.

g. Council Consideration:

Motion by Councilor Moore, seconded by Councilor Patton, to adopt Ordinance No. 01-06.

ORDINANCE NO. 01-06 – AN ORDINANCE CONCERNING THE VACATION OF APPROXIMATELY 9,544 SQUARE FEET OF PUBLIC RIGHT OF WAY ON SW 67TH AVENUE IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2001-00001).

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

(Agenda Item No. 8 was considered at this time.)

7. UPDATE ON THE STATUS OF THE KOREAN WAR 50TH ANNIVERSARY COMMEMORATIVE COMMUNITY PROJECT

City Manager Monahan reviewed the activities of the City of Tigard, which is a Korean War 50th Anniversary Commemorative Community. A list of the activities for the first year is contained in the staff report, which is on file with the City Recorder.

8. DISCUSSION WITH STATE SENATOR RYAN DECKERT AND STATE REPRESENTATIVE MAX WILLIAMS (Note: State Representative Max Williams was not able to attend this meeting.)

Senator Deckert was present and advised the City Council that the Senate has almost completed their work this session. He said it was a good session for the most part. He noted recent transportation funding approval where this district will receive a higher percentage of the funds when compared statewide. Senator Deckert announced that the commuter rail project has been funded with \$23 million allocated this biennium and \$15 million scheduled to be funded next biennium.

Senator Deckert reported on education. Tigard and Beaverton school districts will need to make financial cuts of approximately \$1.5 million. Senator Deckert noted that it was important to provide incentive for local voters to invest in new schools.

In response to a question from Councilor Scheckla regarding Senate Bill 479 concerning limiting utility fees, Senator Deckert advised that he now opposes this Bill noting that all jurisdictions should be subject to the same rules. He said that the City of Ashland has been providing cable and television services. Senator Deckert commented on the local franchise fees charged by communities and advised he supported local control of communities.

There was discussion on proposals that have surfaced this legislative session that preempts cities from legislating activities in certain instances. Councilors Patton and Dirksen noted that it is problematic when the legislature usurps local control, which then makes it difficult to respond to local citizens' concerns.

Councilor Patton thanked Senator Deckert for being responsive to the City Council and for his availability to the Council to hear concerns.

9. (City Recorder's Note: Due to amendments to the Agenda, there was no Item No. 9 assigned.)
10. PUBLIC HEARING (QUASI-JUDICIAL) – CONSIDER ADOPTING THE COMPREHENSIVE PLAN AND DEVELOPMENT CODE CHANGES FOR THE DURHAM QUARRY SITE (CPA2001-00001/ZOA2001-00001/ZON2001-00001)

Washington County has requested a comprehensive plan amendment, a zone change and zone ordinance amendment on this property to change it from Industrial Park (I-P) to a new zoning designation of Mixed Use Commercial (MUC-1). The purpose is to be consistent with zoning recently adopted on adjacent property in the City of Tualatin in order to facilitate a mixed-use development on the existing Durham Quarry site. The Durham Quarry is a 29-acre parcel owned by Washington County. Approximately 21 acres is located within the City of Tualatin and approximately 8 acres is within the City of Tigard. The Quarry has been declared surplus and, therefore, the County wishes to sell it or lease it on a long-term lease to a developer. After many months of multi-jurisdictional meetings, it was determined that a mixed-use commercial development was a better use of the surplus land than the existing Industrial Park zone would allow. No development applications have been proposed. **LOCATION:** Corner of 72nd Avenue and Bridgeport; WCTM 2S113AC, Tax Lot 01200. **ZONE:** Existing – Industrial Park (I-P), Proposed – Mixed Use Commercial (MUC-1). **APPLICABLE REVIEW CRITERIA:** Community Development Code Sections 18.380.030, 18.390.050 and 18.390.060; Comprehensive Plan Policies 1.1.1, 2.1.1, 3.3.1, 5.1, 6.1.1, 8.2.2, 9.1.1, 12.1.1 and 12.2.1; Statewide Planning Goals 1, 2, 9,

10, 12 and 13; and Metro Functional Plan Titles 1, 3, 4, 7, and the Regional Transportation Plan.

- a. Mayor Griffith opened the Public Hearing.
- b. Declarations or Challenges - Mayor Griffith asked the following questions:
 - Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits?
 - Have all members familiarized themselves with the application?
 - Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council?

Councilor Scheckla noted that he drives through this area regularly. Councilor Moore noted that this item has been discussed previously by the City Council; however, there were no development proposals discussed.

All City Council members indicated they were familiar with this agenda item.

There were no challenges expressed.

Legal Counsel Ramis noted that if, during the course of the hearing, information that had been heard previously by the City Council will affect a member's vote, then they should so advise. Councilor Moore said that the information presented to the City Council to date has not swayed his opinion.

- c. Community Development Director reviewed the Staff Report, which is on file with the City Recorder. The City Council is considering amending the Comprehensive Plan Text and Map and Development Code Text and Zoning Map to allow an MUC-1 designation on a portion of the Durham Quarry located in the City of Tigard. In response to a question from Councilor Scheckla, Community Development Director Hendryx advised that the City Manager from Durham has been involved with the project throughout the process.
- d. Public Testimony – Mayor Griffith read the following statement:
 - For all those wishing to testify, please be aware that failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and parties an opportunity to respond to the issue will

preclude an appeal to the Land Use Board of Appeals on this issue. Testimony and evidence must be directed toward the criteria described by staff or other criteria in the plan or land use regulation, which you believe, apply to the decision.

- Proponents

- Frank Angelo, 620 SW Main, Suite 201, Portland, Oregon 97205 and Larry Eisenberg of Washington County presented introductory remarks to the City Council. Mr. Eisenberg noted that two years have been spent in developing a viable concept for a mixed-use development. Also he noted that traffic issues need to be addressed for this area. The purpose of the hearing tonight is to create a uniform zoning for a master plan for the parcels that are located within both the Cities of Tigard and Tualatin.

Mr. Angelo reviewed the details of the request, which include the amendment to the Comprehensive Plan for a mixed-use development and the Development Code amendments.

The Cities of Tigard, Tualatin, and Durham have worked together in developing a proposal. The Washington Square Plan was used as a model; however, it is not an exact replication. An intergovernmental agreement will be needed between Tigard and Tualatin with regard to review authority and process. Traffic is a major issue, which can be more specifically addressed once a development proposal is submitted.

The City of Tualatin has adopted a mixed-use commercial designation. In response to a question from Mayor Griffith, Mr. Angelo advised that the proposed rebuild of the intersection near this location is under review by the Oregon Department of Transportation. An area traffic study is needed.

In response to a question from Councilor Scheckla, Mr. Eisenberg advised that the Tri Met transfer station has been considered. There will be a need to reconfigure the site. It is anticipated that there will be an opportunity to expand the number of vehicles that could utilize the transfer site.

Community Development Director Hendryx noted that staff recommends approval of the proposed ordinance.

Councilor Patton commented on the Planning Commission's recommendations. She said that she did not think that the City Council should attempt to designate a certain amount of residential units and was in favor of retaining flexibility on the number of residential units. She advised there was no need for additional units in this instance for density requirements.

e. Mayor Griffith closed the Public Hearing.

f. Council Consideration:

ORDINANCE NO. 01-07 -- AN ORDINANCE ADOPTING THE COMPREHENSIVE PLAN AND DEVELOPMENT CODE CHANGES FOR THE DURHAM QUARRY SITE (CPA2001-0001/ZOA2001-00001/ZON2001-00001)

Motion by Councilor Moore, seconded by Councilor Dirksen, to adopt Ordinance No. 01-07.

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

11. CONSIDER AN ORDINANCE DELETING TIGARD MUNICIPAL CODE SECTION 2.58 RELATING TO THE APPOINTMENT OF THE FINANCE DIRECTOR

Finance Director Prosser reviewed the Staff Report, which is on file with the City Recorder. Section 2.58 of the Tigard Municipal Code contains outdated procedures governing the appointment of the Finance Director. City Manager Monahan noted that under the Council/Manager form of government, the City Manager appoints department heads. In response to a question from Councilor Scheckla, City Attorney Ramis advised that the Code was originally written with the current language for the Finance Director when Tigard was a small community. Initially, the City Council had direct control over the Finance Director; however, the City has now developed a more sophisticated method for management.

ORDINANCE NO. 01-08 – AN ORDINANCE REPEALING TIGARD MUNICIPAL CODE SECTION 2.58 RELATING TO THE APPOINTMENT OF THE FINANCE DIRECTOR.

Motion by Councilor Patton, seconded by Councilor Dirksen, to adopt Ordinance No. 01-08.

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

12. CONSIDER AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE SECTION 3.44.010 RELATING TO THE SALE SUBSTANDARD SURPLUS REAL PROPERTY

Finance Director Prosser presented the staff report, which is on file with the City Recorder. The proposed amendments would allow greater flexibility in the method of issuing notification of sale and allowing City Council to establish terms and conditions.

ORDINANCE NO. 01-09 – AND ORDINANCE AMENDING SECTION 3.44.010 OF THE TIGARD MUNICIPAL CODE RELATING TO THE SALE OF SUBSTANDARD SURPLUS REAL PROPERTY.

Motion by Councilor Patton, seconded by Councilor Scheckla, to adopt Ordinance No. 01-09.

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

13. COUNCIL LIAISON REPORTS – None.

> Study Meeting items were continued at 9:25 p.m.

- The I-5/217 Project Grand Opening will occur on July 10. City Manager Monahan advised Council that the City of Tigard participated in the commemorative edition of the Tigard Times for this project by submitting a one-quarter page advertisement at a cost of \$385. Mr. Monahan advised that this money was not budgeted; however, he was not attending a conference that had been budgeted and therefore funds are available to pay for this expenditure. Council consensus was for support of this advertisement.
- Council discussed the National League of Cities conference to be held in December in Atlanta, Georgia. All City Council members are planning to attend.

14. NON AGENDA ITEMS: None.

15. EXECUTIVE SESSION: Canceled

16. ADJOURNMENT: 9:38 p.m.

Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____

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CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Award of Contract for the Construction of FY 2001-2002 Pavement Major Maintenance Program (PMMP)

PREPARED BY: Vannie Nguyen DEPT HEAD OK: A.P. Duenas CITY MGR OK: Bill Monahan

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board approve the contract award for the construction of FY 2001-2002 Pavement Major Maintenance Program (PMMP)?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve the contract award to **Eagle-Elsner** in the amount of **\$119,952.40**.

INFORMATION SUMMARY

The City of Tigard's Pavement Overlay Backlog list identifies streets that need corrective overlays/inlays and slurry seals. The backlog has been reduced gradually. However, due to limited funding, only a few streets from the list can be addressed this fiscal year. The proposed project for FY 2001-02 includes Kable Street (between Naeve Street and 103rd Avenue), 121st Avenue and North Dakota Street (between Scholls Ferry Road and Springwood Drive). These streets will receive a combination of pavement inlay and slurry seal treatment. Ash Avenue (between Scoffins and Commercial Street) and Meadow Street (east of Tiedeman Avenue) will receive inlay treatment. Also included in the proposed project is slurry seal treatment for the following streets in Washington County: 157th Avenue and 158th Terrace (north of Roshak Road) and Baker Lane (east of 158th Terrace).

This project was first advertised for bids on June 26, 2001. However, the PMMP work was combined with the installation of embedded crosswalk lights at the intersection of 121st Avenue and Springwood Drive. There were only 2 bids submitted at the bid opening on July 10, 2001. These bids were extremely high because the prime contractors had to sub-contract the lighting work to electrical contractors and mark up the price. In the Council meeting of July 24, 2001, the local Contract Review Board rejected all bid proposals.

Staff has separated the PMMP and the Embedded Crosswalk Lighting project into 2 projects for lower bids and better competition. The PMMP project was advertised for bids on July 30, 2001. The Embedded Crosswalk Lights will be advertised for bids in about two to three weeks.

The bid opening for the PMMP project was conducted on August 13, 2001. The bid results are:

Eagle Elsner

Tigard, OR

\$119,952.40

Morse Brothers	Sherwood, OR	\$128,312.60
K.F. Jacobsen	Portland, OR	\$138,860.54
Engineer's Estimate		\$129,000

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None

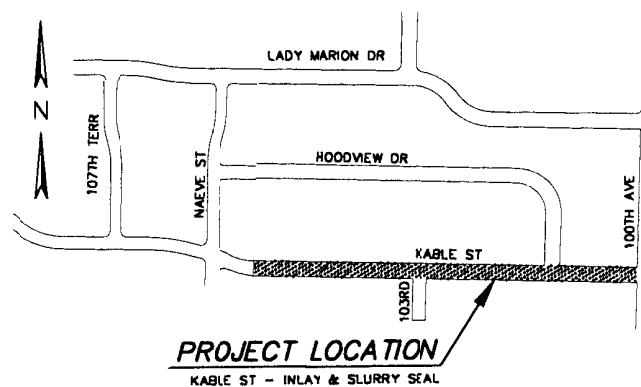
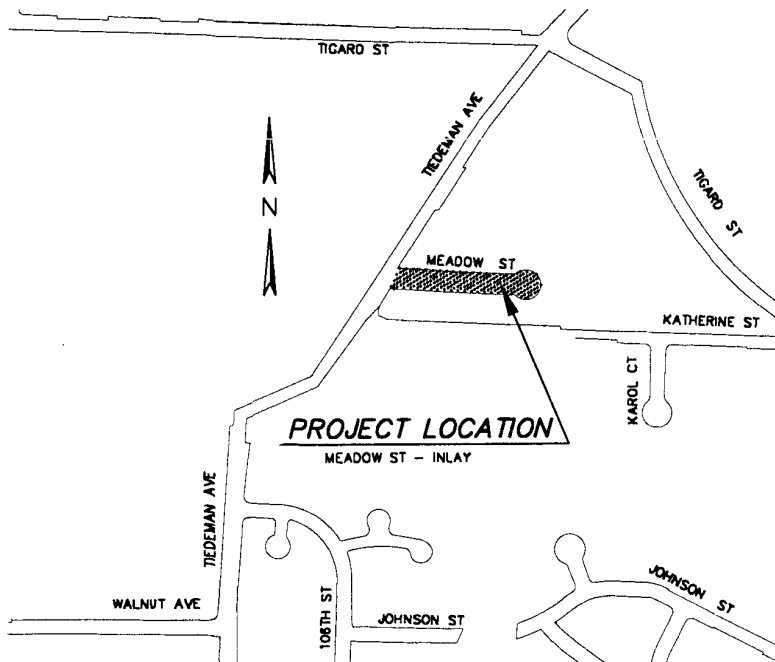
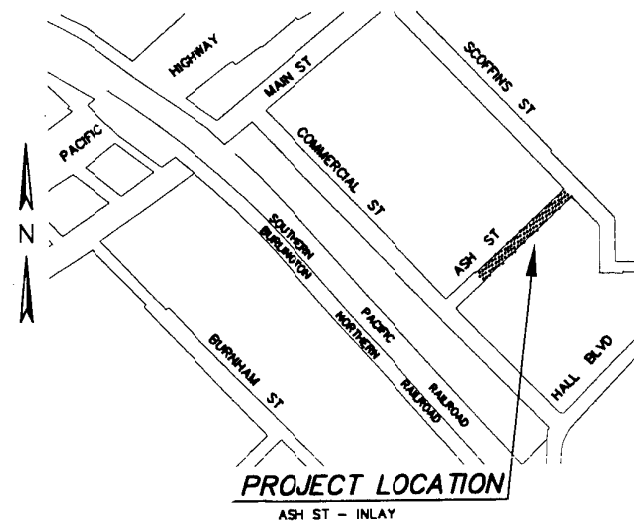
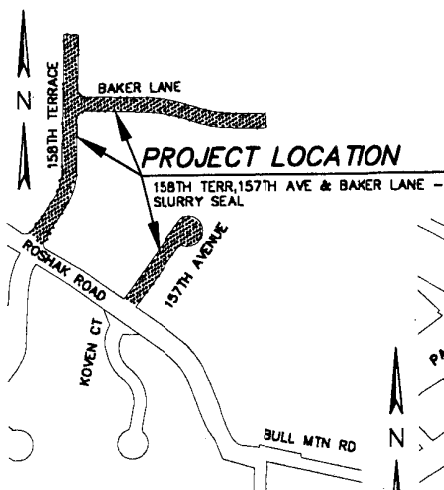
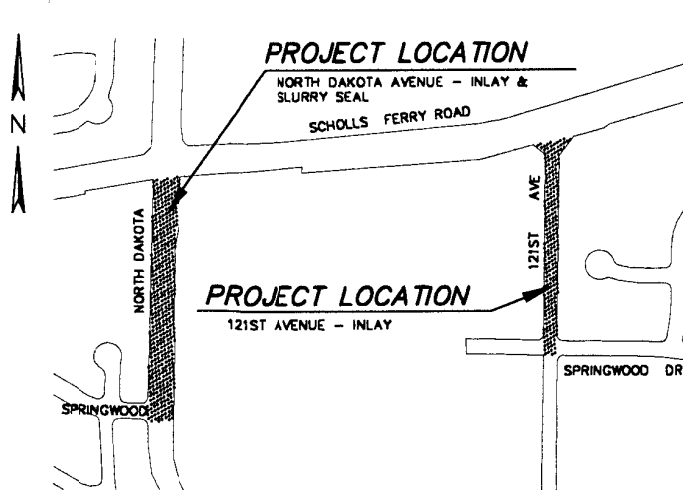
ATTACHMENT LIST

Project location map

FISCAL NOTES

The amount in the bid for City streets is approximately \$112,000. The County's portion of the work is approximately \$8,000.

The amount of \$130,000 has been budgeted in FY 2001-2002 from the State Gas Tax revenue for the PMMP project. This amount is sufficient to pay for the work on the City streets of \$112,000. \$8,000 will be paid by the County in accordance with the Urban Services Area (IGA).



AGENDA ITEM # 4.2b.
FOR AGENDA OF August 28, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Award of Contract for the Construction of Fanno Creek Trail – Segment 3 (from Tiedeman Avenue to Woodard Park)

PREPARED BY: Vannie Nguyen DEPT HEAD OK: A.P. Duenas CITY MGR OK: Bill Monahan

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board approve the contract award for the construction of Fanno Creek Trail – Segment 3 (from Tiedeman Avenue to Woodard Park)?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve the contract award to **Tri-Mountain Excavating** in the amount of **\$68,460.00**.

INFORMATION SUMMARY

The Fanno Creek Trail – Segment 3 project (from Tiedeman Avenue to Woodard Park) has been included, along with other 7 trail projects, in the Parks System Program of the City's Capital Improvement Program since FY 1998-99. Since July 1998, 4 trail segments have been constructed. This project is a companion to adjoining upstream 2,225-foot trail segments (Segment 1 and 2) that were completed and opened to the public. Segment 1 connects North Dakota Street with an existing pathway at Tigard Street. Segment 2 runs between Tigard Street and Tiedeman Avenue.

Trail Segment 3 runs in 2 directions: an easterly direction that connects Tiedeman Avenue with Katherine Street and a southerly direction that begins from Katherine Street, meanders through Woodard Park, and ends at the existing bridge by Johnson Street. This project includes construction of approximately 1,925 feet of a 10-foot wide asphaltic concrete pathway and two 2.5-foot gravel shoulders. No easements are required for the project and no wetlands are impacted by this project. The new paved pathway that runs in a southerly direction through the park replaces an existing narrow pathway. The pavement in the existing pathway is highly deteriorated and requires reconstruction. The pathway alignment is designed to meander through the park to minimize removal of existing trees and relocation of existing facilities.

The bid opening was conducted on August 6, 2001 and the bid results are:

Tri-Mountain Excavating	Ridgefield, WA	\$68,460.00
KJS	Gervais, OR	\$68,884.50
Andersen Pacific	Ridgefield, WA	\$70,777.00
CR Woods Trucking	Sherwood, OR	\$74,835.00

JP Contractors	Portland, OR	\$76,590.00
Daneal Construction	Wilsonville, OR	\$76,825.00
Eagle Elsner	Tigard, OR	\$77,865.00
BCI Contracting	Portland, OR	\$79,897.00
Sunquest Construction	West Linn, OR	\$80,063.25
New Quest Construction	Tigard, OR	\$80,800.00
Brant Construction	Vancouver, WA	\$84,630.00
GVS Contracting	Newberg, OR	\$95,958.50
Engineer's Estimate		\$79,500

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

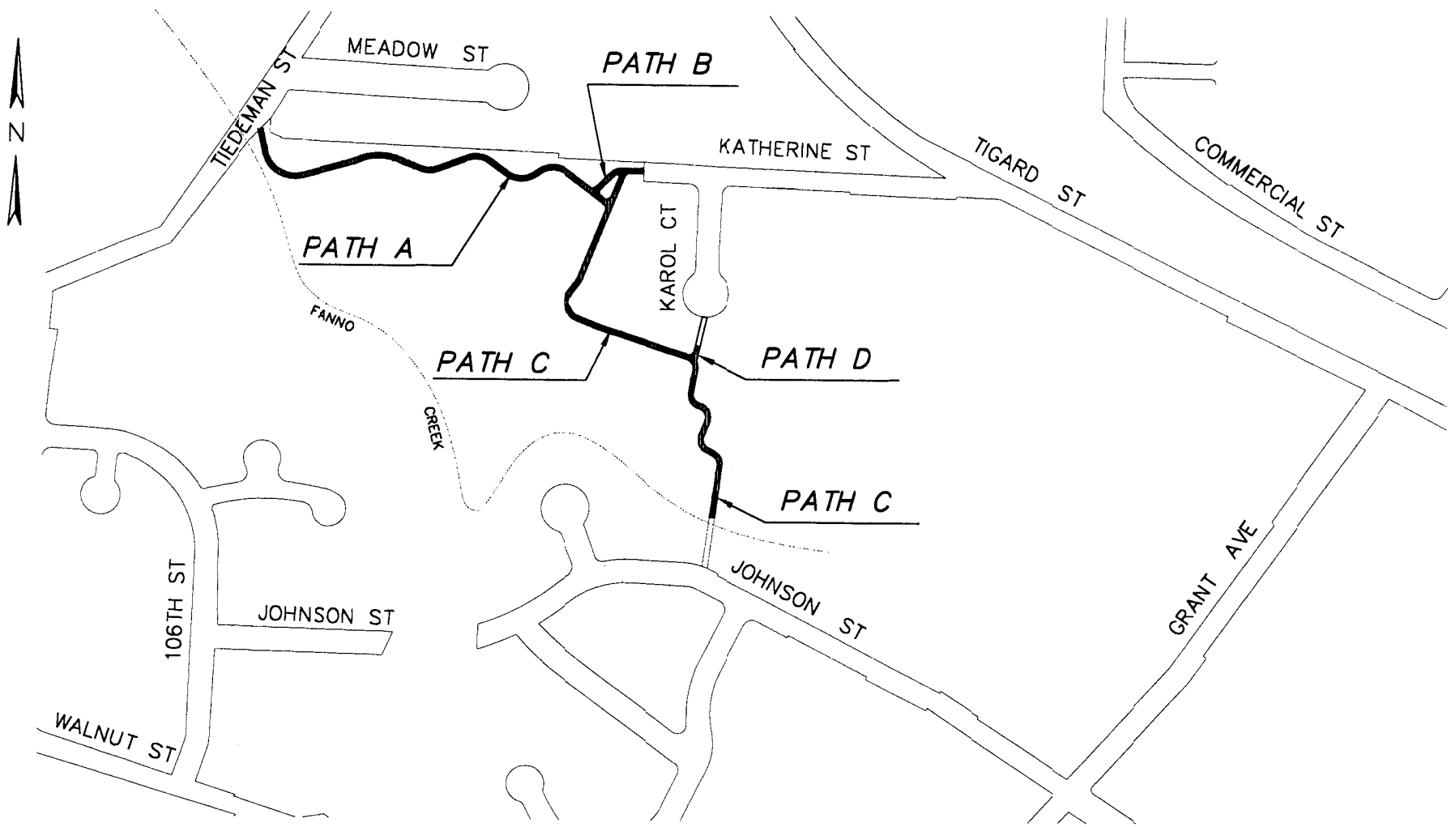
N/A

ATTACHMENT LIST

Project location map

FISCAL NOTES

This project is funded in the amount of \$50,000 through a grant by the Parks and Recreation Division of the State of Oregon. It is also funded in the amount of \$38,000 from the Metro Greenspaces fund of the Parks System Program of the FY 2001-02 CIP. The total amount of \$88,000 is sufficient to award the contract of \$68,460.00 to Tri-Mountain Excavating.



AGENDA ITEM # 4.2c.
FOR AGENDA OF 08/28/01

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Purchase of four (4) police vehicles

PREPARED BY: Ronald D. Goodpaster DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

The purchase of four (4) police vehicles.

STAFF RECOMMENDATION

Staff recommends approval of the purchase of four (4) 2002 Ford Victorias.

INFORMATION SUMMARY

All four of these vehicles were included in the 2001/2002 budget and funds are available.

OTHER ALTERNATIVES CONSIDERED

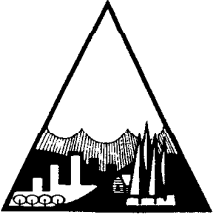
Not purchase vehicles.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

This purchase is consistent with our Public Safety category.

FISCAL NOTES

The vehicles are \$19,707 each. With the required police equipment, the total cost is \$78,828, and funds were budgeted for this purchase.



PURCHASE REQUISITION

CITY OF TIGARD

13125 SW Hall Blvd.
Tigard, Oregon 97223
(503) 639-4171 Fax (503) 639-1471

Date: 8/8/01
From: Capt. R. Wheeler
Dept: Police

TO: Gresham Ford

Attn: Earl Day

Phone: 503-665-0101
Fax: 503-665-0497
Federal ID No.: (For services only)

DELIVER TO:

☐ 13125 SW HALL BLVD
☐ 12800 SW ASH STREET
☐ 8720 SW BURNHAM STREET
☒ 8777 SW BURNHAM STREET

Qty	Vendor Item No.	Description	Dept/Account No.	Unit Price	Extended Price
4		2002 Ford Sedan Full Size Crown Vic, V-8 style P71 4 Dr Police Interceptor, Color: Exterior #UA Black, Interior #2 Light Graphite. Ford fleet. Purchase off of State of Oregon #7501 Contract.	100-1120-703000	19,707.00	78,828.00
4		Keyed Alike (keycode 1284X), #432		40.00	160.00
4		Aux Fuse Panel six circuit, #417		41.00	164.00
4		Power Door Locks, #157		18.00	72.00
4		Windows Controlled by Driver and Front Pass. #948		18.00	72.00
4		Roof Reinforcement, #185		61.00	244.00
4		Silicone Hoses for Wate System, #17D		267.00	1,068.00
4		Blisten Shocks (4) per vehicle, Special Option		438.00	1,752.00
4		Radio Suppression Pkg, #53M		62.00	248.00
4		6-Way PWR Driver Seat, #21A		321.00	1,284.00
Comments:					
			S & H		
			TOTAL		

Qty	Vendor Item No.	Description	Dept/Account No.	Unit Price	Extended Price
4		Anti-Lock Braking System, #552		534.00	2,136.00
4		Ignition Powered Door / IP Decklid Release, #61H		54.00	216.00
4		Courtesy Lamp Disable, #478		13.00	52.00
4		HD Rubber Floor Covering, #127		23.00	92.00
4		Limited Slip Differential, #45C		85.00	340.00
4		Drivers-side Spot Lamp Prep Pkg, #51B		80.00	320.00
4		Driver-side 6" Spot Lamp - 160,000 CP bulb, #51A		151.00	604.00
1		Manual - Shop Maintenance/Repair Instruction		211.70	211.70
1		Manual - Emissions		168.86	168.86
1		Manual - Electrical Schematic		31.68	31.68
1		Manual - Technical Service Bulletins/Updates No Charge Items: 4 - 4.6L SEFI V8 Engine, 4 - #44U 4-Speed Elec. - Controlled Auto Transmission w/OD, 4 sets #t23-P225/60VR16 All-Season SBR BSW Tires, 4 - #H Cloth Front Buckets/Cloth Rear Bench Seats, 4 sets #64C Hub Caps, 4 - #513 Removable Headliner/Dual Beam Map Lamps, 4 - #96C Front Door Body-Side Moldings, 4 - #153 Front License Plate Bracket Shipping & Handling \$25.00 each		92.40	92.40
Comments:				22,417.64	88,156.64
			S & H		100.00
			TOTAL		88,256.64

APPROPRIATION BALANCE: _____ AS OF: _____ PURCHASING AGENT: _____

APPROVALS:

(IF UNDER \$50) DEPARTMENT DESIGNEE: _____

(IF UNDER \$2500) DEPARTMENT DESIGNEE: _____

(IF UNDER \$7500) DEPARTMENT HEAD/DESIGNEE: Ronald W Goodpastor

(IF UNDER \$25000) CITY MANAGER: _____

(IF OVER \$25000) LOCAL CONTRACT REVIEW BOARD: _____

CAPITAL EXPENDITURES NOT BUDGETED: (IF UNDER \$2500) DIRECTOR OF FINANCE: _____

(IF OVER \$2500) CITY MANAGER: _____

AGENDA ITEM # 4.3
FOR AGENDA OF 8/28/01

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A Resolution Supporting Participation In The ICMA International Resource Cities Program

PREPARED BY: William A. Monahan DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should the City Council choose to support the City of Tigard participating in the International City/Council Management Association (ICMA) International Resource Cities Program?

STAFF RECOMMENDATION

Staff has investigated the elements of the ICMA program, has met with the director of the program, and has determined that the benefits available to the city make this a very worthwhile endeavor for the city, the benefitting community, and the participating staff members. Staff recommends that the City Council endorse the city's participation in the program by passing the attached resolution formalizing our participation in the ICMA/USAID International Resource Cities Program.

INFORMATION SUMMARY

The International Resource Cities Program is a very successful program administered by ICMA in cooperation with USAID. The program matches cities and counties from the United States with communities that ICMA and USAID have determined are in need of assistance in dealing with issues with the intent of building institutions for good governance. In October 2000, USAID awarded ICMA a contract to develop up to 12 partnerships between Indonesian cities and counties with American cities and counties. On February 27, 2001, the City of Samarinda, and the county of Kutai, Indonesia, signed agreements indicating interest in participating in the program. ICMA has identified the City of Tigard and Washington County as a suitable team to partner with Samarinda and the county of Kutai.

Tigard and Washington County were identified for participation by Jon Bormet, Director of the International Resource Cities Program. Jon was previously the City Manager in Sherwood, Oregon, before he joined ICMA over a year ago.

The program was formed several years ago when the United States government determined that many of the answers to the world's problems lie with local government. They identified United States city/county managers and their staffs as the best experts in decision-making and problem solving to provide as resources to communities in need. The program creates an international task force between a United States and international city, focused on one or more issues, and gives them 18-24 months to develop concrete answers and direction.

The benefits to a participating city like Tigard are many. Among them is the opportunity for our participants to develop their problem solving skills in a different environment, one with different factors and resources. Also, our staff members, who are truly experts in their fields, will be given the opportunity to share their knowledge with others who are in need of the resource. Of course, the participants will learn something from the international city staff that is applicable in Tigard. Overall, it is a learning experience as well as an opportunity for participants to stretch beyond their normal comfort zone to share their expertise with a community that is seeking assistance. The opportunity to work with our counterparts from Washington County, as we have in the past on numerous local issues, should prove to be very rewarding, working together to problem solve in a larger arena. Finally, being selected for the program is an acknowledgement of the quality of community we have and the excellent staff that we have.

Samarinda is the capitol city of East Kalimantan Province. The county of Kutai is also located in East Kalimantan Province.

The initial diagnostic report on the needs of Samarinda and Kutai County, prepared by the ICMA staff based in Indonesia, concluded that Samarinda could benefit from partnering with an organization with staff members who can assist in negotiating agreements with other government levels and institutions. Budget and finance are key elements as well as creation of development standards for government land. Kutai County requires assistance in land development policies, involvement strategies, and environmental cleanup.

Assistance from the City of Tigard and Washington County would come in the form of staff visits by various small teams of professionals. Participation will be voluntary as it is recognized that the program entails considerable travel inconvenience and some almost negligible risk associated with travel to a third world emerging democracy. City and county employees will be paid their regular salary while on this assignment.

The staff members selected to make the visits would possess the skills and expertise relevant to the identified issues. The visits would take place over a period of approximately eighteen to twenty-four months. Representatives of Samarinda and the county of Kutai, Indonesia, would also be visiting Washington County and the City of Tigard during that period, up to a total of nine visits. All travel expenses will be paid for by USAID.

OTHER ALTERNATIVES CONSIDERED

The city can choose to not participate in the program.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

1. Resolution Supporting Participation
2. ICMA Resource Cities
3. City of Samarinda and county of Kutai, Indonesia, International Resource Cities Diagnostics

FISCAL NOTES

Cost to the City of Tigard is the contribution of the staff resources needed to participate in the program over eighteen months or so. It is estimated that the total time contribution between city and county staff will be twenty-four trips lasting 10 to 14 days. If the City of Tigard contributes one half of the staff resources during the program and the trips last an average of seven work days, the city contribution is estimated to be 84 days of staff time.

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-_____

A RESOLUTION SUPPORTING PARTICIPATION IN THE INTERNATIONAL CITY/COUNTY
MANAGEMENT ASSOCIATION (ICMA) INTERNATIONAL RESOURCE CITIES PROGRAM

WHEREAS, the International/City/County Management Association (ICMA) in cooperation with the United States agency for International Development (USAID) and other international agencies established an international partnerships program called the International Resource Cities Program; and

WHEREAS, through the International Resource Cities Program, selected local governments exhibiting a record of exceptional management in the U.S. have been invited to share their local government expertise and successes with communities in developing countries that are making the transition to democracy; to provide technical assistance in improving professional and ethical municipal management; to support participatory and inclusive government; to improve delivery of public services; and to increase access to decent and affordable housing; and

WHEREAS, the City of Tigard, Oregon, partnering with Washington County, Oregon, has been chosen to participate in this extraordinary program to represent the United States by being matched with the City of Samarinda, Indonesia, and the county of Kutai, Indonesia.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City Council supports the City's participation in the International Resource Cities Program, and by so doing endorses the promotion of democratic principles in the City of Samarinda, Indonesia, and the county of Kutai, Indonesia.

PASSED: This _____ day of _____ 2001.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

I:\ADM\RESOLUTIONS\ICMA - IRCP.DOC

RESOLUTION NO. 01-____



"Global Problems...Local Solutions"

ICMA, in cooperation with the United States Agency for International Development (USAID) and other international agencies, is very pleased to invite your city, county, or association to participate in our international partnership project – ***International Resource Cities Program (IRCP)***. Through this program, the skills and successes of US local governments and local government associations are shared with local governments in developing and transitional countries around the world. Under this initiative, US cities, counties, or associations are partnered with counterparts in developing and transitional countries to provide technical assistance in *improving professional municipal management; supporting participatory and inclusive governance; supporting economic development; promoting sound financial management; and improving delivery of environmental services.*

Since its commencement in 1997, the IRCP has sponsored more than 25 partnerships between US cities and counties with cities and counties in developing and transitional countries across Eastern Europe, Southern Africa, Asia, and Latin America. Funds cover the costs of international travel, accommodations, and related expenses. The designated Resource Cities, both in the US and overseas, are expected to pay the salaries of their employees while they are participating in short-term overseas assignments.

US city/county managers, association executives, and chief administrative officers (including mayors when applicable) are expected to provide the organizational leadership and overall management for the program, and serve as the principle liaison with ICMA. The manager/chief executive is also expected to select from his/her staff the appropriate individuals to participate in overseas exchanges. When a US Resource City is partnered with an overseas counterpart, the manager/chief executive will be expected to obtain from the Mayor and City/County Council or Board of Directors a resolution indicating their support for the city's participation in the Program.

ICMA is extending an outreach to city/county managers and association executives who may have an interest in participating in the Program. This initial expression of interest does not constitute a formal commitment, but will enable ICMA staff to provide additional information to interested managers/executives and to assess the pool of potential cities, counties, and associations.

Program Goals

- *To provide technical expertise to enable local government managers in developing and transitional countries to address pressing urban management issues.*
- *To establish new professional development opportunities for professional urban managers in the US and overseas.*
- *To establish substantive professional relationships between US municipal governments and associations and their counterparts in developing and transitional countries.*
- *To facilitate greater understanding of the mutual benefits that can be derived when community leaders in the US, and their overseas partners, achieve sustainable solutions that enhance the capacities of democratic local government.*

Program Description

The IRCP provides direct, flexible and low-cost access to US cities, counties, and associations. The program builds practical, problem-solving relationships between US local governments and associations and their counterparts in developing and transitional countries to support international technical assistance, information sharing and technology exchange. Under this initiative, over 30 US cities have been partnered with cities and counties overseas to provide technical assistance in the following strategic areas:

- ◆ improving professional municipal management
- ◆ supporting participatory and inclusive governance
- ◆ supporting economic development
- ◆ promoting sound financial management
- ◆ improving delivery of environmental services and enhancing accessibility to these services

The IRCP is a joint partnership between USAID, ICMA, and ICMA members. Funding for the partnerships is provided by USAID. These funds cover the costs of international travel, accommodations, and related expenses. ICMA staff provide technical and logistical support to both the US and overseas partners. The designated Resource Cities, both in the US and overseas, are expected to cover the salaries of their employees while they are participating in short term overseas assignments, which are not expected to exceed two weeks per trip.

ICMA is soliciting expressions of interest from US cities, counties, and associations interested in being considered for participation in the program. This expression of interest does not constitute a formal commitment, but will enable ICMA to assess the pool of potential candidates.

Obligations of US Resource Cities

US cities, counties, and associations participating in the program will be expected to enter into an agreement with ICMA to provide specific short-term technical assistance to a designated counterpart overseas. This assistance will be provided primarily through staff, but may also be provided by other individuals not directly affiliated with the city, county, or association (e.g., universities, Chambers of Commerce, other non-profit organizations, etc.). The exact scope of assistance will be determined in consultation with the overseas counterpart and outlined in a Memorandum of Understanding (MOU). It is anticipated that the MOU will be drafted and signed by official representatives of both local governments/associations and ICMA during or following the first exchange visit. The city, county, or association will continue to pay the salaries of the employees who are involved. Time overseas will generally be short term, usually not exceeding two weeks.

For More Information:

For additional information or questions you may have, please contact IRCP Director Jon Bormet at (202) 962-3508 or jbormet@icma.org.



777 North Capitol Street, NE
Suite 500
Washington, DC 20002-4201

City of Samarinda
International Resource Cities Diagnostic
March 21 - 22, 2001



Submitted by:
Deborah Kimble, Senior Municipal Governance Advisor
Tristanti Mitayani, Partnership Manager

USAID Cooperative Agreement

CITY OF SAMARINDA

International Resource Cities Diagnostic

Submitted by:

Deborah Kimble, Senior Municipal Governance Advisor
Trisanti Mitayani, Partnership Manager

Summary

Samarinda is the capital of East Kalimantan Province and has a population of approximately 500,000 people. Geographically divided by the Mahakam River, Samarinda may face difficulties in delivering services to its citizens. These difficulties arise from the reliance on the bridge, which connects the two sides of the city.

More than 50% of the population of Samarinda earns their living from the service sector, while 30% work in industry and another 10% work as farmers. Like many cities in Indonesia, Samarinda must deal with the problems associated with transferring employees from the provincial and national levels, to lower levels of government.

The annual budget for development in Samarinda comes from two sources. The first source is regional revenue, which accounts for about 10% of the total budget. The remaining 90% comes from shared finances provided by the national government. Development decisions are made by the Secretary of the City, who heads the senior management team, which builds the annual work plan for the city.

Samarinda officials identified two primary issues that should be considered through the partnership:

1. Securing the revenues from the central government promised under Law No.25/1999 on Regional Autonomy and subsequent PP 104-108 (Government Regulation).

Staff explained that in order to secure funds from the Ministry of Finance, they were required to travel to Jakarta to meet with finance officials. These meetings were scheduled at the Ministry's convenience and cost valuable time and money. Compounding the hardship of travel was the lack of trust in the reporting mechanisms for determining the funds to which cities were entitled. While city officials are guaranteed natural resource revenues, per the revenue sharing formula, they question the revenue that industries report. Such industry reports are the basis for the formula used to allocate national resource revenues and finance a large percentage of the overall budget in Samarinda. Collecting the actual funds, therefore, proves to be extremely problematic.

2. Defining the actual authority of central government versus the local government as it relates to management and development of forest and mining sectors.

Staff raised concerns about decisions that were or could be made by the central government, regarding sale or use of natural forests, by outside investors. All officials felt that local approval was needed to ensure that the central government/investors were in compliance with local plans. Furthermore, they felt that new central government laws, being drafted for forestry and mining, should include comments by and participation of the LGU staff.

THE RESOURCE CITIES PROJECT

On February 27, 2001 *Kota Samarinda* (city of Samarinda) signed a Memorandum of Understanding indicating their interest in participating in the Building Institutions for Good Governance (BIGG) Program of ICMA-USAID in Indonesia. Specifically, they agreed to participate in the International Resource Cities Program (IRCP) component of BIGG. Given this commitment, a municipal diagnostic was required to determine:

- The conditions of the city, as well as conditions that will influence the effectiveness of the exchange.
- A profile of the city that can be used to select the most appropriate US city partner of the program.
- The appropriate type of technical assistance or resources that should be exchanged in the partnership.
- A framework for the partner's technical exchange work plan.

On March 21 and 22, 2001 *Deborah Kimble*, ICMA Municipal Governance Advisor and *Trisanti Mitayani*, ICMA Partnership Manager for the IRCP of BIGG, met with members of the executive and administrative staff of Samarinda.

This report provides an overview of the meetings and findings of the diagnostic trip, as well as an analysis of the findings as they relate to meeting the current main objectives of Samarinda. These objectives include developing and implementing a financial policy that can be used as the performance measurement for all revenue sources and can flag delinquent revenue payments. The diagnostic report also offers a list of potential technical approaches that partners may want to pursue. The report is divided into four sections:

- Section 1: Background on the process;
- Section 2: Summary of the meetings conducted;
- Section 3: Descriptions of the context that guided the analysis of the findings; and
- Section 4: Recommendations on the scope of technical exchange for the partnership.

1. Background on the Diagnostic Process

The diagnostic in Samarinda is part of a province-wide process of tying four local government units — Kabupaten Pasir, Kota Balikpapan, Kota Samarinda and Kabupaten Kutai — through the budget and financial training program. As a result, many issues that deal with financial practices in the city, were investigated earlier by ICMA Senior Budget and Finance Advisor *Philip Rosenberg* and ICMA Budget and Finance Specialist, *Charles Poluan Jr.*

Meetings in Samarinda were limited to one and half days due to the schedules of the local officials. However, the cooperation of staff during the meetings proved to be sufficient enough to meet the objectives of the diagnostic.

On Wednesday, March 21, 2001 *Deborah Kimble* and *Trisanti Mitayani* met with *Walikota Samarinda* (the Mayor of Samarinda) *Drs. H. Ahmad Admins*, *Sekretaris Kota* (Secretary to the city), *Ketua BAPPEDA* (Chairman of Regional Planning Agency) *H. Mochdar Hasan*, and *Kepala Bagian Keuangan* (Finance Director) *H.M. Saili*. The issues that were laid out during this meeting focused on the relationship between the central government and the city. Two issues in particular were raised as concerns:

- Securing the revenues from the central government promised under Law No.25/1999 on Regional Autonomy and subsequent PP 104-108 (Government Regulation).

Several issues were identified. Staff explained the importance of having to go to Jakarta and meet with Ministry of Finance officials (at the ministry official's convenience), in order to secure funds. This is something that takes time and money. Furthermore, city officials indicated that, while they were guaranteed natural resource revenues per the sharing of revenue formula, they did not feel they could trust the reported revenue from the industries; the base on which the formula was applied. A large percentage of the overall budget for Samarinda is financed by the shared revenues; problems in collecting the actual funds (for either of the reasons stated) will prove extremely problematic.

- Defining the actual authority of central government versus the local government as it relates to management and development of forest and mining sectors.

Staff raised concerns about decision that were or could be made by the central government regarding sale or use of natural forest by outside investors. All officials felt that local approval was needed in order to ensure that they were in compliance with local plans. Furthermore, they felt that new central government laws drafted for forestry and mining should include comments by and participation of the LGU staff.

Finally, when asked what the biggest challenge was for the city to achieve a random list of development activities¹ for Samarinda, they stated that lack of funds (real/actual funds not only as promised) and human resources (both staff and citizen) were inhibitors. They characterized the human resource problem as "no action/talk only." Individual meetings, as summarized next, provided more insight into these two concerns.

2. Summary of the Meetings

Three individual meetings were convened. Staff that was interviewed included: the Secretary to the city-H. Mardiansyah, Chairman of Planning Agency-H. Mochdar Hasan, and Director of Finance-H.M. Saili.

Interview Findings

Secretary to the city: H. Mardiansyah

As Secretary to the City, Mardiansyah provided information related to the general conditions of Samarinda's human resources and identified challenges that needed to be addressed to develop better skills. He strongly believes in skill development, for both staff and citizens. The Secretary understands that, given the natural resource base of Samarinda and the subsequent international investor interest, there is opportunity for both gain by and abuse of the citizens. In particular, Mardiansyah felt that citizens and staff needed to have a better understanding of how international firms conducted business so that local entrepreneurs might be able to secure contracts for projects. Examples of the types of training he felt people needed (staff and citizens) include: English language training, international business management, and contract

¹ List of activities included traffic, market, housing, cleaning of river, harbor, airport, bridges and general infrastructure

negotiations. If entrepreneurs had training in these areas, he felt the city could act as an intermediary, bringing entrepreneurs and investors together.

Finance Department: H.M. Saili

The meeting with Sail and his staff was extremely detailed. Saili elaborated on the relationship between how things used to be done and the changes that needed to be implemented for the new autonomy to be successful. In particular, he emphasized the need for the local government to follow the "reinventing government model" and to ensure that the "real" needs of the citizens were addressed. He felt that currently, "the city had adopted the spirit [but not the intent] of open and transparent government."

The Director of Finance indicated that in the past, performance was measured by the portion of the budget financed by local revenues only. The measurement that was used was simply the collection of revenues. He indicated that now performance budgeting had to link expenditures with outcomes, to show how specific revenues sources are linked to specific development expenditures. This new measurement improved the lives of citizens and helped to show the community how the local government was responding to their needs.

Some of the challenges in accomplishing this were provided by his staff. They include: understanding and adopting double-entry accounting system standards, using the performance based budgeting as a decision-making tool and merging the routine and development budgets so that a comprehensive financial assessment could be made.

Practical solutions offered by the Finance Department included:

- Upgrading the computer systems
- Training for staff on how to implement responsibilities under new autonomy
- Producing good and appropriate financial reports.

The final area of discussion focused on the overall organizational structure, as it related to implementing transparent financial management. Basically, the finance department described two organizational structures: one that facilitated administrative actions and one that facilitated financial decision-making actions. Assuming that the latter is confirmed by the Mayor, it provides a workable structure for the promotion of new financial management.

3. Analysis of the Findings

For purposes of analysis, ICMA/USAID developed a four-point structure to determine the most useful technical information for each of the local government units in Indonesia, as they implement Laws 22 and 25. The four points are:

3.1 Organizational Capacity

The personalities of the senior executive staff in Samarinda provide an important resource for the successful implementation of Laws 22 and 25. In particular, the Secretary to the Mayor is versed in western business and financial practices, at least as they relate to making investment decisions. As a result he has begun to develop the skills of the administrative staff to ensure that they are able to "hold their own" during negotiations with foreign firms.

While not official, Samarinda is, in practice, organized similarly to a council manager structure of government. This was noted by the Finance Director who, along with his staff, brings considerable talent and knowledge to the organization, which will enhance the Kota's ability to implement Law 25. In practice, the secretary to the mayor is

functioning much as a city manager would in the budget process. The Director of Finance, the Planning Agency and the Secretary make up the budget committee, reviewing departmental requests and taking responsibility for integrating the routine and development budgets. This practice is one of the first noted, vis-à-vis the completion of the seven diagnostics, which brings the status of the finance director on par with that of the Planning Agency.

As with all autonomous regions in Indonesia, reorganizing the local government is an ongoing and iterative process. Samarinda seems to be taking steps forward informally, but did not address why such steps had not been taken formally. However, given the number of expected new presidential and ministerial degrees yet to be passed, informal reorganization may be the most efficient way to move forward for the time being.

3.2 *Transparent Budget and Financial Systems*

The richness of East Kalimantan's natural resource base makes securing the special revenue funds from the central government a priority. Like Kutai Kabupaten, Samarinda officials felt that it will be critical to:

- Lobby Jakarta for timely and accurate transfer of funds;
- Develop a mechanism that provides an accurate estimate of the income generated from the natural resources so that the transfers from the GOI are complete.

Contrary to other local governments interviewed, Samarinda financial officers addressed the expenditure side of the budgetary and financial systems. Due to lack of experience and limited computer capacity, however, the progress made in reforming budget and finance practices is conceptual. Moving from concept to reality should be part of the partnership work plan.

3.3 *Effective Citizen Participation*

Samarinda officials describe their programs as citizen oriented, with citizen based budgeting and an investment strategy that provides citizens opportunities to secure contracts. There is, however, no evidence that citizens have been involved in these processes or that a strategic development plan (one which addresses the needs of citizens in a logical and orderly fashion) is in place. The latter is illustrated by the list of capital projects that the Mayor mentioned (see footnote 1).

3.4 *Efficient Delivery of Urban and Environmental Services*

Little discussion ensued regarding the delivery of actual services. The city officials are primarily focused on securing revenues. Samarinda's potential wealth, as defined by the projected revenues to be derived from natural resources, can become a disincentive for developing efficient management practice for the delivery of services. When cities have excessive or at least sufficient revenues, political will to instill financial discipline is often times not exercised. Building a transparent financial and budgetary system will provide a mechanism by which to determine how, or if, the Kota (both legislative branch and the executive branch) are making good financial decisions.

4. *Recommendations for the Partnership Exchange*

Samarinda would benefit from developing the staff's ability to negotiate agreements with other levels of government and other institutions. Inherent in this skill set is the ability to analyze information and make realistic projections. This internal skill set should be gained from the budget and finance training that will be given to the staff. In terms of

how this can be applied to the partnership, it is recommended that one or more of the following types of agreements should be pursued:

- A plan for rental or other compensation for public use of city land by province and central government (don't quite understand this sentence...does she mean a tax program in lieu of something else, or simply a tax program-the sentence isn't grammatically correct.)
- Intergovernmental agreements on development standards of central government owned land.
- Partnership with local institutions for small business economic development training and/or certificate.

It is recommended that the partner cities (both US and Indonesian), should work collaboratively to develop an effective lobbying program. This recommendation is based on the need to define the actual authority of the local government (as it relates to the management of natural resources), as well as the need to be able to secure actual revenues, from the central government, that are common among several of the local governments in East Kalimantan. This can and should be done in cooperation with the associations. In the early stages of development, East Kalimantan might become one of the associations' pilot advocacy activities, which can be replicated in other provinces as the associations capacity to advocate on behalf of their members improves.

County of Kutai
International Resource Cities Diagnostic
March 29, 2001



Submitted by:
Deborah Kimble, Senior Municipal Governance Advisor
Tristanti Mitayani, Partnership Manager

USAID Cooperative Agreement

COUNTY OF KUTAI

International Resource Cities Diagnostic

Submitted by:

Deborah Kimble, Senior Municipal Governance Advisor
Trisanti Mitayani, Partnership Manager

Summary

Kutai County is a large administrative area (27,263 km²) located in the Province of East Kalimantan with a relatively low population density (slightly over 400,000 people). The center of the county (equivalent to US County Seat) is Kecamatan (Sub-District) Tenggarong, less than an hour trip from the capital city of the province, the City of Samarinda.

Kutai, famous as the oldest Kingdom in Indonesia, has natural resources such as coal, oil, gas, agriculture and forestry, gold and other mining products. Kutai is also famous for its river, the Mahakam, which has both tourism and transportation uses, but is prone to floods during the rainy season. Kutai currently accounts for about 30% of the total revenue for the Province.

Despite this, people in Kutai County still live in poverty, and in unsafe, damaged environments. Although Kutai has several big or foreign companies, their quality of life is still inappropriate. Most of the people still earn their living from farming (38%), handicrafts (18%), and trading (10%). As Regional Autonomy is implemented, one of the principles interests for Kutai County is how to attract investment to be able to finance sustainable development.

THE RESOURCE CITIES PROJECT

On February 27, 2001 *Kabupaten Kutai* (the County of Kutai) signed a Memorandum of Understanding indicating their interest in participating in the Building Institutions for Good Governance (BIGG) program, implemented by ICMA. Specifically, they agreed to participate in the International Resource Cities component of BIGG. Given this commitment, a municipal diagnostic was required to:

- Define the conditions of the County of Kutai; conditions that will influence the effectiveness of the exchange.
- Provide a profile of the county that can be used to select the most appropriate US partner.
- Identify the appropriate type of technical assistance or resources that should be exchanged in the partnership.
- Establish a framework for the technical exchange work plan of the partnership.

On March 28 and 29, 2001 *Deborah Kimble*, Senior Municipal Governance Advisor and *Trisanti Mitayani*, Partnership Manager from ICMA - BIGG met with members of the executive and administrative staff of the County.

This report provides an overview of the meetings and findings of the diagnostic trip as well as an analysis of the findings as they relate to meeting the objectives of the county—flood control and development. Further, the diagnostic report offers a list of potential technical approaches that the partners may want to pursue. The report is divided in to four sections:

- 1) Background on the process;
- 2) Summary of the meetings conducted;
- 3) Description of the context that guided the analysis of the findings; and
- 4) Recommendations on scope of technical exchange for the partnership.

1. Background on the Diagnostic Process

The diagnostic in the County of Kutai is part of a province-wide process of tying four local government units—the County of Pasir, the County of Kutai, the City of Samarinda and the City of Balikpapan—through the budget and financial training program of the ICMA-BIGG program. As a result, a fair amount of the issues dealing with financial practices in the county were investigated earlier by Senior Budget and Finance Advisor Philip Rosenberg and Budget and Finance Specialist Charles Poluan.

The general review meeting held on Thursday morning, March 29, 2001 focused on the overarching issues that might be addressed through the Resource Cities partnership.

The common problems of autonomy – resource sharing, human resource capacity, merging the routine and development budgets, and financing of infrastructure, to name just a few—were submitted as the critical areas of concern for Kutai. Participants in the March 29 meeting indicated that Kutai faced the specific challenges of improving the economic condition of the county. In particular, staff identified the following as areas in which action was necessary:

- Environmental clean up of the river,
- Land development and land control, and
- Balanced investment strategies.

Each of these issues is discussed in more detail below.

2. Analysis Of Diagnostic Findings

Kutai County has around 426,000 people in an administrative area of about 27,263 km². It is located at the north of the City of Samarinda and is linked with its famous river Mahakam from the upstream to the downstream at the sea.

Environmental Clean Up: Recently Kutai was divided into three separate counties. While this made geographic sense—creating more manageable sized areas—it has created new problems. One of the more serious problems is the down-stream pollution, which has resulted in the dying off of the fish and contamination of the river, both potential resources for economic development.

Kutai Staff feel that two systemic issues need to be addressed if the pollution problem is to be properly addressed—development of a regional pollution control program and increasing the local council's understanding of their role in a regional problem. In both instances, the onset of autonomy changes the role local government plays in the design and implementation of both.

Land Development And Land Control: Land development and control is linked to the environmental issues, but further implications of a weak development and control policy relate to the use of land for industrial development. Staff indicated they wanted to determine how to use development policy as a way to create more economic opportunity for the people of the community and not just the large corporations.

Further, members of the BAPPEDA (regional development planning board) staff indicated that consideration now had to be given to conflicts that could arise between local land regulations and those decrees and regulations adopted by the ministries and president. The conflict stems from the lack of clear understanding of the delineation of responsibility and authority between local dinas (service departments) and line ministers in such areas as natural resource management, mining, forestry, etc.

Balanced Investment Strategy: Development of an investment strategy is contingent on improving the county's ability to estimate financial resources and expenditures. As with other LGU's in East Kalimantan, this is highly influenced by the special revenue transfers from the central government. Several factors that must be considered in resolving the financial questions include:

- Gathering data about the natural gas resources so that an accurate estimate of tax revenues can be calculated. The local government has to rely on the government data; data that they feel is not used in calculations that benefit the county.
- Increasing the predictability of revenue transfers and collection. Beyond the issue of having access to better data, several staff members indicated that collecting the taxes from both the central government and local business firms (those fees and taxes that are locally levied) is a problem.
- Increasing the amount of money collected locally from local taxes. Several people indicated that the county needed to negotiate better tax schemes with the larger businesses and that the amount of local tax revenue should be increased, offsetting the eventual decline in future central government revenue transfers.

3. Interview Findings

For purposes of analysis, ICMA/USAID developed a four-point structure by which to determine the most useful technical information for each of the local government units in

Indonesia as they implement Laws 22 and 25. The four points are (including Kutai's steps to improve in each area):

1. Organizational capacity
 - Developing/introducing new analytical skills that correspond to new autonomy responsibilities
 - Building citizen involvement programs that contribute to the community consensus.
2. Transparent budget and financial systems and practices
 - Estimating tax revenues from all sources
 - Improving revenue collection
 - Conducting a revenue analysis for purposes of developing an investment strategy to attract business.
3. Efficient deliver of services
 - Adopting a regional pollution control plan
 - Creating an investment strategy that benefits low income/low skilled citizens.
4. Effective citizen participation

No such citizen participation programs indicated from the interviews, as Kutai is interested in trying to find the better way to increase the regional revenue by itself so they could run the development without being heavily dependent on national government.

4. Recommended Approaches For IRCP For Kutai County

Recommended approaches for an IRCP for Kutai County could go through several issues that are expected by the government staff, such as:

- Environmental clean-up of the river
- Land development and land control policies
- Balanced investment strategies to increase the regional revenue.

AGENDA ITEM # 5
FOR AGENDA OF August 28, 2001

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Recognition of Nancy Irwin and Larry Beck for service on the Library Board

PREPARED BY: Susan Koepping DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Recognition of Nancy Irwin's and Larry Beck's contribution to the Library Board

STAFF RECOMMENDATION

On behalf of the Tigard community, Mayor Griffith and City Council will express appreciation to Nancy Irwin and Larry Beck for the time, energy and expertise they contributed while serving on the Library Board. Mayor Griffith will present certificates of appreciation to Ms. Irwin and Mr. Beck.

INFORMATION SUMMARY

Nancy Irwin was appointed to the Library Board in May, 1993 and served through June of 2001.
Larry Beck was originally appointed to the Library Board in September, 1995 and served through June of 2001.
The Library experienced significant growth in usage during their years of service.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Goal: City will maximize the effectiveness of the volunteer spirit to accomplish the greatest good for our community.

FISCAL NOTES

None

AGENDA ITEM # 6
FOR AGENDA OF August 28, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Recommendation for a site for the proposed new library from the New Tigard Library Construction Committee.

PREPARED BY: Margaret Barnes DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Shall the City Council approve the recommended site for the proposed new library?

STAFF RECOMMENDATION

The staff recommendation is for the City Council to approve the recommended site for the proposed new library. In addition, the staff recommendation is for the City Council to authorize staff to work with the property owner to pursue an option for the property.

INFORMATION SUMMARY

The New Tigard Library Construction Committee has been meeting since August of 2000. This past year the Committee has regularly presented information to the City Council regarding the progress of the Committee. The criteria developed by the Committee and BML Architects to evaluate potential sites for the proposed new library has been reviewed with Council during past presentations.

The site being recommended for the proposed new library of 47,000 sq. ft. is a 14.7-acre property located along Hall Boulevard near O'Mara Street. The land is relatively flat with services located nearby, making this an easy-to-develop site. This site will accommodate a two-story structure, future expansion and the necessary parking required for such a facility. There is access to public transportation, a bus line serves the site and a transit center is located within a half-mile radius. The site is also accessible from Hall Boulevard, which is a major arterial street. This site will enable the library to remain in close proximity to the City Hall complex. This proximity would allow for citizens to continue to access a variety of city services in a convenient manner.

Finally, this property is located along the Fanno Creek Trail system and has the potential to enhance the existing network of trails available for public use. Since the property includes a high quality natural area located along the back part of the site, the location is park-like and has potential for views within the facility. There is also the potential for other cultural/outdoor activities to be developed on this site.

At this time, the Committee is prepared to make a site recommendation to Council for the proposed new library.

OTHER ALTERNATIVES CONSIDERED

Not approve this recommendation and begin a new site selection process.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Goal #3: Adequate facilities are available for efficient delivery of life-long learning programs and services for all ages.

Strategy #1: Form a construction committee to explore the feasibility of new library space.

ATTACHMENT LIST

Set of PowerPoint Slides.

GIS Photo.

FISCAL NOTES

The preliminary estimated cost for the proposed new library project is between \$14,000,000 and \$17,000,000.

CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

SITE E

Digital Ortho Photo taken July 2000

 Tigard Wetlands

FEMA Flood plains
100 yr


Site E

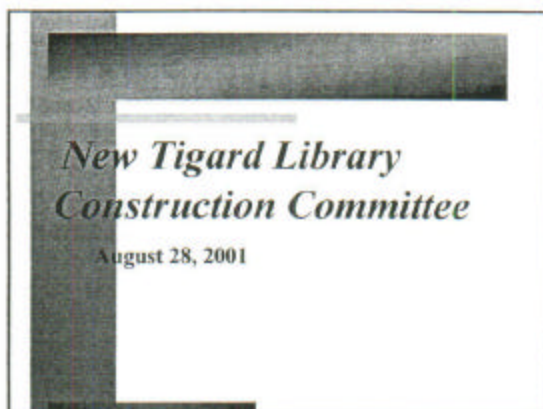
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BLVD

HALL

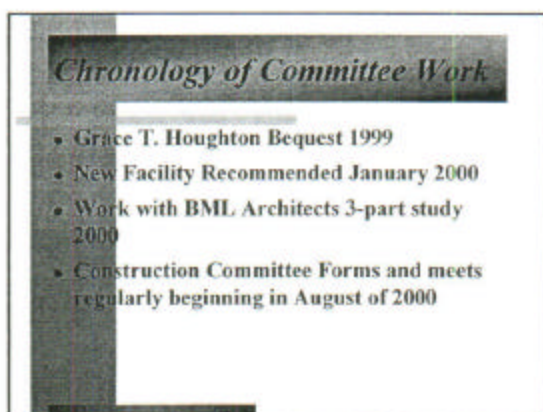


Information on this map is for general location only and
should be verified with the Development Services Division.
13125 SW Hall Blvd
Tigard, OR 97223
(503) 638-4171
<http://www.ci.tigard.or.us>



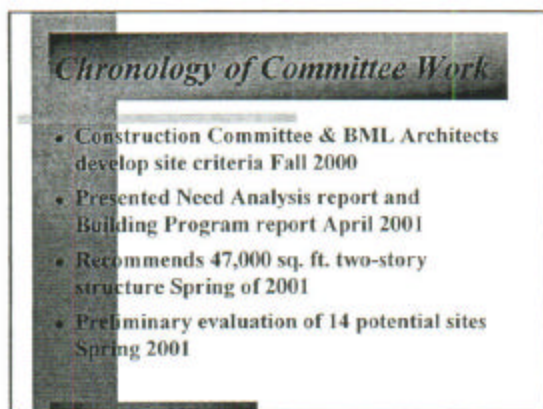
*New Tigard Library
Construction Committee*

August 28, 2001



Chronology of Committee Work

- Grace T. Houghton Bequest 1999
- New Facility Recommended January 2000
- Work with BML Architects 3-part study 2000
- Construction Committee Forms and meets regularly beginning in August of 2000



Chronology of Committee Work

- Construction Committee & BML Architects develop site criteria Fall 2000
- Presented Need Analysis report and Building Program report April 2001
- Recommends 47,000 sq. ft. two-story structure Spring of 2001
- Preliminary evaluation of 14 potential sites Spring 2001

Chronology of Committee Work

- Presented 3 potential sites to Council
April 2001
- Updated Council about potential sites
June 2001
- Architectural model design begins
August 2001
- Site Recommendation presented to Council
August 2001

Site Review

- Criteria for Site Review
 - Accommodates building—one or two story
 - Accommodates needed parking
 - Adequate street access
 - Adequate circulation
 - Topography consideration
 - Views from library/nature

Site Review

- Criteria continued
 - Site preparation needed
 - Future expansion potential
 - Potential to add other uses
 - Unusual costs to develop site
 - Access to public transportation
 - Wetland issues
 - Zoning issues

Recommended Site

Strong Points:

- Accommodates 1 story building plus expansion
- Potential for additional parking
- Public transportation access
- Potential for views and outdoor space
- Likely to have reasonable acquisition cost when you offset w/demolition costs of other sites
- Proximity to the rest of the City complex
- Access to Fanno Creek trail network
- Potential for other cultural/outdoor activities

Summary

- Next Steps
 - Decision on site
 - Informing the community
 - Estimated cost for project
 - \$14,000,000 – \$17,000,000
 - Funding for project
- Questions

AGENDA ITEM # 7
FOR AGENDA OF August 28, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Transportation Financing Strategies Task Force Initial Progress Report

PREPARED BY: A.P. Duenas DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Initial report to City Council by the Transportation Financing Strategies Task Force on the Task Force progress to date.

STAFF RECOMMENDATION

The Task Force requests Council direction to determine the feasibility of implementing a Street Utility Fee for the City of Tigard.

INFORMATION SUMMARY

City Council, through Resolution No. 01-06, formed a Transportation Financing Strategies Task Force to re-evaluate the bond package submitted to the voters during the November 2000 election, determine what went wrong with the bond issue, and make recommendations to City Council for future funding strategies. The Task Force has met three times since April 2001. At its first meeting, the Task Force selected Beverly Froude and Paul Owen as Chair and Vice Chair respectively. The Task Force is currently in the process of evaluating a wide variety of funding sources for both corrective and preventive maintenance of City streets, and expansion of major collectors to accommodate current and future traffic.

As operating costs rise each year, the amount available from the State Gas Tax for corrective and preventative maintenance continues to drastically decrease. The Task Force is seriously considering implementation of a Transportation User Fee (also known as a Street Utility Fee) to help protect the City's investment in the street infrastructure. This is a monthly fee that everyone pays to finance corrective and preventative maintenance on the City streets. Each household and business in the City would be charged a proportionate share and the amount would be included in the monthly utility bill. There are established methods for determining the appropriate monthly charges. The City of Portland recently included such a fee in their Fiscal Year 2001-02 budget. The cities of Tualatin, Wilsonville, Eugene, and others have initiated that type of fee for their street maintenance work. The City of Tualatin implemented their fee about a decade ago and has had a great deal of experience in the administration of that fee. On June 21, 2001, the Task Force listened to a presentation by Dan Boss, Operations Director of Tualatin, on the process that they used to initiate and administer that City's Street Maintenance Fee.

As an initial step, the Task Force recommends that the City pursue the initiation of a Street Utility Fee. The Task Force therefore requests Council direction to study the establishment and implementation of such a fee and prepare

a detailed report to be brought back to Council for consideration. The report would include: justification for implementation of the fee, legal authority for implementation, the basis for the charges to be established, the proposed charge to each household and business, the annual amount that would become available from the fee, the work that would be performed from the revenues collected, timing for implementation, and most important, the public process to obtain input from the public prior to adoption of the fee.

It should be noted that the League of Oregon Cities (LOC) has warned the various cities about attempts by the state legislature to cap or preempt street utility fees. The City of Tigard has gone on record to strongly oppose any such legislative attempts to preempt Oregon cities from initiating such fees. Mayor Griffith has sent letters to both Senator Deckert and Representative Williams strongly opposing any legislative action to preempt these fees. The latest LOC bulletin stated that the legislative efforts did not garner sufficient support during the last legislative session, but that future attempts may be expected.

The Task Force will continue meeting to evaluate other sources of funding. A high priority is determining sources that could be used to provide additional capacity within the existing collector network. The next Task Force report will be scheduled for February or March 2002. The detailed report on the Street Utility Fee will be scheduled for presentation to Council after it has been completed and reviewed by the Task Force.

OTHER ALTERNATIVES CONSIDERED

Do not pursue initiation of a Street Utility Fee.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

The formation of this task force meets the "Tigard Beyond Tomorrow" goal of "Identify and develop funding resources" strategies "Establish a task force to examine current and possible new sources of funding" and "Implement task force recommendations." Any funding sources developed would fund projects that meet the "Tigard Beyond Tomorrow" goals of "Improve Traffic Safety" and "Improve Traffic Flow."

ATTACHMENT LIST

Resolution No. 01-06

FISCAL NOTES

No costs have been determined to date. The study to establish the Street Utility Fee may need an outside consultant to assist staff in various aspects of the report including determination of the appropriate charges and justification for those charges.

CITY OF TIGARD, OREGON

RESOLUTION NO. 01- 06

A RESOLUTION TO ESTABLISH A TRANSPORTATION FINANCING STRATEGIES TASK FORCE TO EVALUATE THE ELECTION RESULTS ON THE UNSUCCESSFUL TRANSPORTATION BOND MEASURE, DETERMINE WHAT WENT WRONG WITH THE BOND ISSUE, EXPLORE FEASIBLE FUNDING STRATEGIES, PRESENT FINDINGS AND PROVIDE RECOMMENDATIONS TO CITY COUNCIL ON THOSE FUNDING STRATEGIES THAT SHOULD BE FURTHER PURSUED, THEN ASSIST IN THE DEVELOPMENT AND IMPLEMENTATION OF THOSE STRATEGIES.

WHEREAS, one of the 1999 City Council goals was to complete the City's transportation program development; and

WHEREAS, one element of that goal was to identify and provide a list of transportation projects and develop a package of projects for a year 2000 bond measure; and

WHEREAS, a Transportation Bond Task Force was created by City Council Resolution No. 99-19 to identify transportation, safety, sidewalk, and pedestrian/bike path projects for inclusion in a bond measure to be submitted for voter approval in the year 2000; and

WHEREAS, the Tigard City Council appointed a group of individuals representing a broad range of interests, backgrounds, and areas of concerns to this Task Force to participate in the development of the transportation bond measure; and

WHEREAS, in April 1999, this Council-appointed Transportation Bond Task Force began a yearlong process to identify transportation, safety, sidewalk, and pedestrian/bikepath projects that would meet the City's goals of improving traffic safety, improving traffic flow, and enhancing pedestrian and bike transportation; and

WHEREAS, the Task Force, after careful consideration of public input, prepared and submitted a list of projects and other recommendations to the Planning Commission on April 17, 2000 and to the City Council on May 9, 2000; and

WHEREAS, the Proposed Transportation Bond Issue in the amount of \$16 million was placed on the November 2000 election ballot as Measure 34-20; and

WHEREAS, the Transportation Bond Issue failed at the ballot by a 64% to 36% margin with that margin relatively consistent throughout all the precincts in the City; and

WHEREAS, the transportation infrastructure improvement needs remain and must be addressed to accommodate the existing and future travel demands of the automobile and alternate modes of transportation; and

WHEREAS, City Council wishes to create a task force to evaluate the election results and determine reasons the bond measure failed; and

WHEREAS, City Council further wishes the task force to explore feasible strategies for funding these urgently needed transportation system improvements and to recommend strategies for funding and public process that takes into account the post-election evaluation findings; and

WHEREAS, the Transportation Bond Task Force was assigned a specific mission to place a package of projects on the election ballot in the year 2000, successfully accomplished it, and was subsequently deactivated; and

WHEREAS, because the new task force will be exploring financing strategies, which could include but are not limited to a future bond issue, the task force to be established should be named appropriately to reflect the assigned mission; and

WHEREAS, the mission for the new task force conforms to the Tigard Beyond Tomorrow Transportation and Traffic goal and strategy of examining current and possible new sources of funding via formation of a task force.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Transportation Financing Strategies Task Force is hereby established. Its membership shall consist of those individuals listed on the attached Exhibit "A."

SECTION 2: The mission of the Task Force is to:

- (1) Evaluate the election results on Measure 34-20 and determine through whatever means deemed reasonable by the Task Force the reasons the measure failed; and
- (2) Review the package of projects in Measure 34-20 and determine if the project listings and bond issue amount should be revised as part of the overall evaluation; and
- (3) Explore feasible funding strategies and develop recommendations for City Council discussion and direction; and
- (4) Determine actions required to enhance the passage of any future funding measures, including the public process essential for enhancing public awareness and support of the projects; and
- (5) Report to City Council the Task Force findings and recommendations on the project package, public process and funding strategies that should be further pursued; and
- (6) Based on Council direction, spearhead efforts to further develop and implement strategies with the goal of funding a transportation improvement package over the next two years.

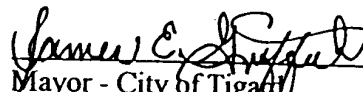
SECTION 3: The Task Force shall provide progress reports to City Council at least once a quarter and shall present the initial report on the findings and recommendations no later than the end of August 2001.

SECTION 4: The City Engineer shall be assigned as staff liaison to the Task Force. Other City staff shall be used to support the Task Force activities as deemed necessary throughout the entire process.

SECTION 5: At the first meeting the Task Force shall select a chair to preside over the meetings. The Task Force shall operate under Roberts Rules of Order. All meetings shall be noticed and conducted in accordance with the State of Oregon public meetings law. A quorum consisting of at least 5 members shall be required for the Task Force to meet. Minutes shall be recorded at every official meeting of the Task Force.

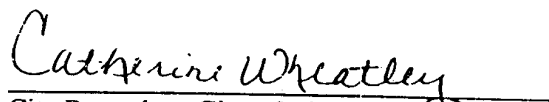
SECTION 6: The need for continuation of the Task Force shall be evaluated one year after formation. The Task Force mission shall be deemed accomplished after City Council is satisfied that the mission of the Task Force has been accomplished. Task Force deactivation shall be by resolution at that time.

PASSED: This 13th day of February 2001.



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

\\Citywide\Res\Establishment of a Transportation Financing Strategies Task Force

Exhibit "A"

Transportation Financing Strategies Task Force Task Force Members

John Olsen
11760 SW Gaarde St.
Tigard, OR 97223

Beverly Froude
12200 SW Bull Mountain Rd
Tigard, OR 97224

Paul Owen
10335 SW Highland Dr
Tigard, OR 97224

Steve Clark
c/o Time Publications
6975 SW Sandburg St
Tigard, OR 97223

Joe Schweitz
14352 SW 90th Ave
Tigard, OR 97224

Brian Moore
Council Liaison
9835 SW Kimberly Dr
Tigard, OR 97224

Cam Gilmour
12695 SW Morning Hill Drive
Tigard, OR 97223

Craig Dirksen
Council Liaison
9131 SW Hill St
Tigard, OR 97223

Darrell Glenn Mores
12897 SW Falcon Rise Drive
Tigard, OR 97223

**CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY**

ISSUE/AGENDA TITLE: Beveland Street @ 72nd Avenue Public Right-of-Way Vacation (VAC2001-00002).

PREPARED BY: Mathew Scheidegger **DEPT HEAD OK** _____ **CITY MGR OK** _____

ISSUE BEFORE THE COUNCIL

Should the City Council vacate an approximately 11,702 square foot portion of public right-of-way commonly known as SW Beveland Street?

STAFF RECOMMENDATION

It is recommended that Council approve the Vacation as requested by adopting the attached Ordinance. **(Attachment 1)**

INFORMATION SUMMARY

The City Council initiated this Vacation on July 10, 2001 (**Attachment 2, Resolution No. 01-42**) to consider the above vacation request. The next step in the process is for the City Council to hold a public hearing.

For the vacation of streets, easements and other public dedicated areas, the City Council begins the process by passing a Resolution to schedule a formal public hearing to consider such requests.

Stoel Rives, LLP, on behalf of Lowe's Hardware (2S101AB-02706 and 2S101AB-02707), Louie A Stober (2S101AB-01604), and Whitethorn, LLC (2S101AB-01900), is requesting that the City Council vacate a portion of SW Beveland Street at SW 72nd Avenue. The portion of SW Beveland Street right-of-way that has been requested to be vacated lies to the north of the newly configured SW Beveland Street and to the west of SW 72nd Avenue. The portion of SW Beveland Street right-of-way to be vacated is due to the new alignment of SW Beveland to align directly with SW Beveland Street east of SW 72nd Avenue. If the requested vacation is approved, the vacated land will revert to the abutting property owners to the north located at 2S101AB-01604 and 2S101AB-01900. The new alignment was constructed across tax lots 2S101AB-02705, 2S101AB-02706 and 2S101AB-02707, which are owned by Lowe's Hardware. The purpose for the relocation was to ensure better traffic flow at the SW Beveland/SW 72nd intersection. The land needed for that improvement and the associated right-of-way was dedicated by Lowe's Hardware to the City of Tigard. As a result of the relocation, a small portion of parcels 02706 and 02707 remains to the north of the relocated SW Beveland Street and south of the old right-of-way. The left over portion of land is to be quit-claimed to tax lot 2S101AB-01900 to the north after the old right-of-way for SW Beveland Street has effectively been abandoned.

Appropriate agencies have been contacted for comments and no objections were received. These include utility companies and emergency service providers.

OTHER ALTERNATIVES CONSIDERED

Take no action at this time.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable.

ATTACHMENT LIST

<u>Attachments:</u>	Attachment 1 – (Ordinance) Attachment 2 – (Resolution No. 01-42 Initiating The Vacation)
<u>Exhibits:</u>	Exhibit “A” – (Legal Description) Exhibit “B” – (Site Plan) Exhibit “C” – (Vicinity Map)

FISCAL NOTES

There are no direct fiscal impacts as a result of this request as all fees have been paid by the applicant.

CITY OF TIGARD, OREGON

ORDINANCE NO. 01-_____

AN ORDINANCE CONCERNING THE VACATION OF APPROXIMATELY 11,702 SQUARE FEET OF PUBLIC RIGHT-OF-WAY ON SW BEVELAND STREET, IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2001-00002).

WHEREAS, the Tigard City Council initiated this vacation request pursuant to Section 15.08.040 of the Tigard Municipal Code on July 10, 2001, and

WHEREAS, the approximate 11,702 square foot portion of the right-of-way had previously been dedicated to the public; and

WHEREAS, SW Beveland Street has been realigned to ensure better traffic flow at the SW Beveland/SW 72nd Avenue intersection; and

WHEREAS, the applicant has requested that the City of Tigard vacate the approximate 11,702 square foot portion of public right-of-way; and

WHEREAS, the said portion of public right-of-way may no longer be necessary; and

WHEREAS, the Tigard City Council finds it appropriate to vacate the requested public right-of-way;

WHEREAS, the City will no longer have maintenance responsibility of this area; and

WHEREAS, all affected service providers, including utility companies and emergency service providers, have reviewed the vacation proposal and have provided no objections; and

WHEREAS, notice has been mailed to all property owners abutting said vacation area and all owners in the affected area, as described by ORS 271.080; and

WHEREAS, in accordance with Tigard Municipal Code 15.08.120, notice of the public hearing was posted in the area to be vacated and published in the newspaper; and

WHEREAS, the property owners of the majority of the area affected have not objected in writing; and

WHEREAS, the City Council having considered the request at a public hearing on August 28, 2001, finds that it is in the public interest to approve the request to vacate said public right-of-way as the public interest will not be prejudiced by this vacation, as provided by ORS 271.120 and TMC Section 15.08.130.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby orders the vacation of an approximate 11,702 square foot portion of public right-of-way as more particularly described in Exhibit "A" and Exhibit "B" and by reference, made a part hereof.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, approval by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2001.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2001.

Jim Griffith, Mayor

Approved as to form:

City Attorney

Date

CITY OF TIGARD, OREGON

RESOLUTION NO. 01- 42

A RESOLUTION INITIATING VACATION PROCEEDINGS TO VACATE AN APPROXIMATE 11,702 SQUARE FOOT PORTION OF PUBLIC RIGHT-OF-WAY ON SW BEVELAND STREET AT THE INTERSECTION OF SW 72ND AVENUE (VAC 2001-00002)

WHEREAS, the approximate 11,702 square foot portion of the right-of-way had previously been dedicated to the public; and

WHEREAS, SW Beveland Street has been realigned to ensure better traffic flow at the SW Beveland/SW 72nd Avenue intersection; and

WHEREAS, the applicant has requested that the City of Tigard initiate Vacation proceedings to vacate an approximate 11,702 square foot portion of public right-of-way; and

WHEREAS, the said portion of public right-of-way may no longer be necessary; and

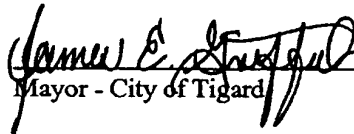
WHEREAS, the Tigard City Council finds it appropriate to initiate Vacation proceedings for the requested public right-of-way vacation.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

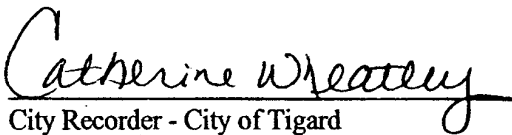
SECTION 1: The Tigard City Council hereby initiates a request for the vacation of an approximate 11,702 square foot portion of public right-of-way as more particularly described in Exhibit "A" and Exhibit "B" and by reference, made a part hereof.

SECTION 2: A public hearing is hereby called to be held by the City Council on August 28, 2001, at 7:30 PM in the Town Hall at Tigard City Hall, 13125 SW Hall Boulevard, within the City of Tigard, at which time and place the Council will hear any objections thereto and any interested person may appear and be heard for or against the proposed vacating of said public right-of-way.

PASSED: This 10th day of July 2001.


Mayor - City of Tigard

ATTEST:


City Recorder - City of Tigard

RESOLUTION NO. 01- 42

Griffin Land Surveying

12700 SW North Dakota St. - Suite 180, PMB 216 - Tigard, Or. 97223

Office: (503)579-8503

Fax: (503)579-6823

April 30, 2001

S.W. Beveland Road - Right of Way Vacation Legal Description

A portion of SW Beveland Road as platted in "Hermoso Park", a subdivision filed in Washington County Plat Records, situated in the NE 1/4 of Section 1, T.2S., R.1W., W.M., City of Tigard, Washington County, Oregon, being more particularly described as follows:

Beginning at the Southwest corner of Lot 16 of said "Hermoso Park";

Thence Easterly along the North right of way line of said SW Beveland Road to a point 46 feet westerly, when measured at right angles, from the centerline of SW 72nd Avenue;

Thence parallel with said centerline, S 2°33'30" W, 30.17 feet to the centerline of said SW Beveland Road;

Thence continuing parallel with the centerline of said SW 72nd Avenue, S 2°33'30" W, 22.37 feet;

Thence along the arc of a curve concave Westerly, having a radius of 20.00 feet, through a central angle of 22°24'32" (chord bears S 13°45'46" W, 7.77 feet) a distance of 7.82 feet to the South right of way line of said SW Beveland Road;

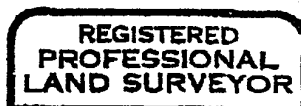
Thence along said South right of way line, N 81°54'22" W, 150.17 feet;

Thence along the arc of a non-tangent curve concave Northeasterly, radius point bears N 29°27'42" E, 245.00 feet, through a central angle of 8°16'59" (chord bears N 55°53'48" W, 39.65 feet) a distance of 39.69 feet;

Thence along the arc of a reverse curve concave Southwesterly, having a radius of 305.00 feet, through a central angle of 5°35'26" (chord bears N 54°03'02" W, 29.75 feet) a distance of 29.75 feet to a point S 8°05'38" W from the Southwest corner of said Lot 16;

Thence N 8°05'38" E, 28.71 feet to the point of beginning.

Courses in the above description are derived from a Record of Survey prepared in March 2001 by Minister-Glaeser Surveying Inc.



Kenneth D. Griffin



RENEWS 6/30/01



Exhibit C



CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

VICINITY MAP

VAC2001-00002

BEVELAND STREET
@ 72ND AVENUE
PUBLIC RIGHT-OF-WAY
STREET VACATION

Approximate area
to be vacated



0 200 400 600 Feet

1" = 423 feet



City of Tigard

Information on this map is for general location only and
should be verified with the Development Services Division.
13125 SW Hall Blvd
Tigard, OR 97223
(503) 638-4171
<http://www.ci.tigard.or.us>

**CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY**

ISSUE/AGENDA TITLE Consideration of a Resolution adopting the Final Order approving the Blue Heron Park Subdivision (SUB2001-00001, PDR2001-00001, ZON2001-00002, SLR2001-00003, VAR2001-00002).

PREPARED BY Dick Bewersdorff **DEPT HEAD OK** _____ **CITY MGR OK** _____

ISSUE BEFORE THE COUNCIL

Should the City Council adopt the attached Resolution, Final Order and Findings approving the Blue Heron Park Subdivision?

STAFF RECOMMENDATION

Adopt the attached Resolution, Findings and Final Order.

INFORMATION SUMMARY

On June 11, 2001 the Tigard Planning Commission held a public hearing to consider an application for an 18-lot subdivision and planned development on 4.15 acres of land. The property is located at 12450 SW Walnut Street, opposite the intersection of 124th Avenue and Walnut Street. The development proposal is for attached, single family homes on individual lots. The Planning Commission denied the application, based on the finding that the development would adversely affect the welfare of the City.

The applicants filed an appeal on June 22, 2001 of the Planning Commission's decision, based on the assertion that the Planning Commission failed to: explain the criteria and standards considered relevant to the decision, state the facts relied upon in rendering the decision, and explain the justification for the decision based on the criteria, standards, and facts set forth. Staff reviewed the applicable decision criteria and found there is no criterion regarding the effect of development on the welfare of the City. The City Council opened the public hearing on the project on July 24, 2001. The City Council continued the hearing to August 14, 2001 to allow the applicant to meet all notice and posting requirements. On August 14, 2001, the City Council resumed the public hearing, heard testimony and voted to approve the project, subject to revised findings and four additional conditions. The four conditions address fencing adjacent dwelling units, the planting of two inch caliper trees in setbacks, establishment of an escrow account to cover damage to retained trees over 12 inches in caliper, and study of the need for a painted crosswalk at the intersection of 124th Ave. and the private street. The attached Resolution includes the findings and additional conditions, as well as, adopts the staff report and conditions and the public record on the project.

OTHER ALTERNATIVES CONSIDERED

1. Revise the findings or conditions.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

1. Resolution/Final Order.
2. Staff Report/Planning Commission Final Order No. 2001-02 PC
3. Draft minutes of the August 14th City Council meeting.

FISCAL NOTES

N/A

I:\curpln\kevin\subdivision\Blue Heron AIS 8-28-01.doc

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-

A RESOLUTION ADOPTING THE FINAL ORDER APPROVING A SUBDIVISION, PLANNED DEVELOPMENT, ZONE CHANGE, SENSITIVE LANDS REVIEW, AND VARIANCE (BLUE HERON PARK SUBDIVISION - SUB2001-00001/PDR2001-00001/ZON2001-00002/SLR2001-00003/VAR2001-00002).

WHEREAS, the Planning Commission reviewed this case at its meeting of June 11, 2001; and

WHEREAS, the Planning Commission denied the application (Planning Commission Final Order No. 2001-02 PC); and

WHEREAS, the applicants submitted an appeal of the Planning Commission's denial of the application on June 22, 2001, and

WHEREAS, a new public hearing with new testimony was provided on July 24, 2001 and continued to August 14, 2001; and

WHEREAS, the City Council determined that the Planning Commission final order failed to explain the criteria and standards considered relevant to the decision, state the facts relied upon in rendering a decision, and explain the justification for the decision based on the criteria, standards, and facts set forth, as required in Section 18.390.050.E of the Tigard Development Code, and

WHEREAS, the City Council reviewed the staff report and found that the proposed development would be in compliance with all applicable decision criteria, as conditioned in the staff report plus four additional conditions addressing privacy, tree retention, and traffic safety;

WHEREAS, the City Council found that the applicant proposed and was given a density bonus for preservation of canopy coverage and trees. The trees and canopy to be retained were a major attribute of the natural and physical environment of the site (code section 18.350.100.B.3.a) and that the trees were proposed to be preserved by the applicant and it is, therefore, necessary to ensure that the trees retained on the project and on adjacent properties are not damaged by project or home construction, and;

WHEREAS, the City Council found that given the site's location, density with respect to clustered units, and nearness to other adjacent homes, that privacy for existing and future residents to help retain compatibility between uses needs to be assured to decrease noise, provide visual barriers, privacy and reduce the opportunity for trespass (code section 18.350.100.B.3.b.), and;

WHEREAS, the City Council found that existing and future traffic on Walnut Street, as well as the street configuration with Walnut Street, 124th Avenue, and the project's private street, and the lack of full improvements on Walnut Street all create potential safety hazards for pedestrians (code section 18.810.030.A.5.b and E.1.b and d);

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Tigard City Council hereby approves SUB2001-00001/PDR2001-00001/ZON2001-00002/SLR2001-00003/VAR2001-00002 – BLUE HERON PARK SUBDIVISION, based on the information provided in the public record and subject to the conditions of approval in the Planning Commission’s Final Order No. 2001-02 PC, and the addition of four additional conditions as follows:

1. The site shall be fenced with “good neighbor fencing” as proposed by the applicant on the north, west and south sides of the development adjacent to all existing dwelling units.
2. All trees to be planted in the setback areas must be a minimum of two caliper inches.
3. Prior to any construction activity on site, the applicant shall establish an escrow account in the favor of the City of Tigard in an amount established by the City’s Urban Forester to cover the value of all 12 inch or greater trees to be retained on site, as well as, trees of 12 inches or greater immediately adjacent to the project site. Said account will be made available to the City of Tigard for any damage caused to the aforementioned trees during the construction of streets, sidewalk and utility improvements on site, as well as, all dwelling units. No portions of the account will be returned to the developer until all construction has been completed and the City Urban Forester has conducted a final inspection and deducted value of any damage.
4. Prior to construction, the applicant’s traffic engineer shall submit for City Engineer review and approval, a study that will address whether or not a painted crosswalk will be warranted across SW Walnut Street at the intersection of SW 124th Avenue and the new private street. The study shall reference the Manual on Uniform Traffic Control Devices (MUTCD). If a painted crosswalk is warranted, the applicant shall provide the crosswalk and signage as a part of the construction of their development.

SECTION 2: The Final Order approved by the City Council is hereby made a part of the permanent record.

PASSED: This _____ day of _____ 2001.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

**NOTICE OF FINAL ORDER NO. 2001-02 PC
BY THE PLANNING COMMISSION
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = 8/28/2001

SECTION I. APPLICATION SUMMARY

FILE NAME:	BLUE HERON PARK SUBDIVISION	
CASE NOS.:	Subdivision (SUB)	SUB2001-00001
	Zone Change (ZON)	ZON2001-00002
	Planned Development Review (PDR)	PDR2001-00001
	Sensitive Lands Review (SLR)	SLR2001-00003
	Adjustment (VAR)	VAR2001-00002
PROPOSAL:	<p>Approval of an 18-lot subdivision on 4.15 acres. The lots are to be developed with attached single-family homes. Lot sizes within the development average just over 3,800 square feet. Development is to be clustered on the west side of the development site, allowing for the preservation and enhancement of the pond, wetland, and stream area on the eastern portion of the property. A sensitive lands review is required for the development due to the presence of steep slopes, a wetland, and a natural drainageway on the site. The applicant has also requested an adjustment to the maximum allowed cul-de-sac length to allow for a cul-de-sac length of approximately 500 feet.</p>	
APPLICANT:	Urban Development Corporation Attn: Al Jeck 9600 SW Oak Street, Suite 230 Portland, OR 97223	OWNER: Erroyl Hawley 9055 SW 91 st , #7 Portland, OR 97223
APPLICANT'S REP:	Alpha Engineering, Inc. Matthew Sprague, Project Planner 9600 SW Oak Street, Suite 230 Portland, OR 97223	
ZONING DESIGNATION:	<p>R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally.</p>	
LOCATION:	<p>12450 SW Walnut Street; WCTM 2S103BC, Tax Lot 3900. The project site is located on the south side of SW Walnut Street, opposite of SW 124th Avenue and west of SW 121st Avenue.</p>	
APPLICABLE REVIEW CRITERIA:	<p>Community Development Code Chapters: 18.350, 18.370, 18.380, 18.390, 18.430, 18.510, 18.705, 18.715, 18.720, 18.725, 18.730, 18.745, 18.765, 18.775, 18.790, 18.795, 18.797 and 18.810.</p>	

SECTION II. DECISION

Notice is hereby given that the City of Tigard Planning Commission has **DENIED** the above request based on the finding that the development would adversely effect the welfare of the City.

CONDITIONS OF APPROVAL

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO COMMENCING ANY ONSITE IMPROVEMENTS, INCLUDING GRADING, EXCAVATION AND/OR FILL ACTIVITIES:

Submit to the Engineering Department (Brian Rager, 639-4171, ext. 318) for review and approval:

1. Prior to commencing onsite improvements, a public improvement permit and compliance agreement is required for this project to cover all public improvements, including the construction of the private street and storm drainage facilities, and any other work in the public right-of-way. Seven (7) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to public improvements. Public improvement plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page (www.ci.tigard.or.us).
2. As a part of the public improvement plan submittal, the Engineering Department shall be provided with the exact legal name, address and telephone number of the individual or corporate entity who will be responsible for executing the compliance agreement (if one is required) and providing the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
3. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase. All construction vehicle parking shall be provided on-site. No construction vehicles or equipment will be permitted to park on the adjoining residential public streets. Construction vehicles include the vehicles of any contractor or subcontractor involved in the construction of site improvements or buildings proposed by this application, and shall include the vehicles of all suppliers and employees associated with the project.
4. The applicant's construction plans shall show a new private street entrance from SW Walnut Street. The entrance shall be established with a standard commercial driveway apron.
5. The applicant's construction drawings shall show that the pavement and rock section for the proposed private street shall meet the City's public street standard for a local residential street.
6. The applicant's construction plans shall indicate that they will construct a pedestrian/bike path to the western boundary of this site. The pathway shall be lighted, and shall be placed in a tract to be dedicated to the City on the final plat. The sidewalk portion along the private street shall be five feet in width. The portion from the end of the private street to the western property line shall be eight feet in width.
7. The applicant's construction plans shall show "No Parking" signs placed along both sides of the new private street.
8. The applicant's construction plans shall show the new 8-inch public sanitary sewer line extending to the western boundary of this site.
9. The applicant's construction plans shall provide for back yard private storm lines to pick up any flows that may develop from existing parcels uphill of this site.
10. Prior to construction, the applicant shall demonstrate that their construction plans meet the pertinent requirements from their USA Service Provider Letter.
11. The applicant's construction plans shall indicate they will remove necessary vegetation in the right-of-way of SW Walnut Street, to improve the sight distance east of the new private street entrance.
12. The applicant's construction plans shall show an advanced intersection sign (MUTCD W2-1) to alert westbound motorists of the intersection at SW 124th Avenue and the new private street.

13. Any extension of public water lines shall be shown on the proposed public improvement construction drawings and shall be reviewed and approved by the City's Water Department, as a part of the Engineering Department plan review. **NOTE:** An estimated 12% of the water system costs must be on deposit with the Water Department prior to approval of the public improvement plans from the Engineering Department and construction of public water lines.
14. Prior to construction, the Public Works Department shall review and approve the applicant's water distribution plan. The Public Works Department may require a master meter with backflow protection to be installed at the private street entrance at SW Walnut Street. With that scenario, the onsite water line(s) and individual meters would be private.
15. Final design plans and calculations for the proposed private water quality facility shall be submitted to the Engineering Department (Brian Rager) as a part of the public improvement plans. Included with the plans shall be a proposed landscape plan and maintenance plan.
16. An erosion control plan shall be provided as part of the public improvement drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, December 2000 edition."
17. A final grading plan shall be submitted showing the existing and proposed contours. The plan shall detail the provisions for surface drainage of all lots, and show that they will be graded to insure that surface drainage is directed to the street or a public storm drainage system approved by the Engineering Department. For situations where the back portions of lots drain away from a street and toward adjacent lots, appropriate private storm drainage lines shall be provided to sufficiently contain and convey runoff from each lot.
18. The applicant shall incorporate the recommendations from the submitted geotechnical report by GeoPacific Engineering, dated March 6, 2001, into the final grading plan. The geotechnical engineer shall be employed by the applicant throughout the entire construction period to ensure that all grading, including cuts and fills, are constructed in accordance with the approved plan and Appendix Chapter 33 of the UBC. A final construction supervision report shall be filed with the Engineering Department prior to issuance of building permits.
19. The final construction plans shall be signed by the geotechnical engineer to ensure that they have reviewed and approved the plans. The geotechnical engineer shall also sign the as-built grading plan at the end of the project.
20. The design engineer shall indicate, on the grading plan, which lots will have natural slopes between 10% and 20%, as well as lots that will have natural slopes in excess of 20%. This information will be necessary in determining if special grading inspections and/or permits will be necessary when the lots develop.

Submit to the Planning Department (Kevin Young, 639-4171, ext. 407) for review and approval:

21. The applicant shall use appropriate Best Management Practices for Erosion Control, as required in the USA service provider letter.
22. The applicant shall be required to meet all conditions of the USA service provider letter, at the appropriate stages of the development process.
23. The applicant shall redesign the proposed stormwater facility so that it does not result in grading or filling within the wetland areas on the site. The stormwater facility may be located within the 50-foot vegetated corridor, but may not be located within the wetland or drainageway.
24. The applicant shall abide by all Tree Protection Standards included in the arborist's report prepared by Walter H. Knapp, dated February 20, 2001. Required tree preservation fencing shall be installed prior to site grading or clearing and shall remain in place until final occupancy permits are issued for the proposed homes.
25. The applicant shall revise their erosion control plan to address and include all requirements noted in Sections 18.797.080 (Subsections J and K).
26. No site grading or clearing will be allowed until all necessary erosion control measures are in place.

27. The applicant shall prepare tree mitigation materials to indicate the total number of caliper inches of trees to be removed. The applicant shall indicate how they intend to mitigate for 50% of the total number of caliper inches to be removed.
28. The applicant shall submit a bond to provide for the planting of the required caliper inches of trees. An approximate figure for the cost of purchasing, transporting, planting, and maintaining a 2-inch caliper tree is \$200. The applicant shall specify how they propose to mitigate for the required caliper inches to be mitigated. All mitigation trees shall be a minimum of 2-inch caliper size. If the applicant intends to mitigate on-site by planting trees, a revised landscaping plan shall be required that indicates which trees are to be counted towards the mitigation total. Street trees and trees required to meet the buffer and parking lot tree requirements shall not be counted toward the mitigation trees.
29. The applicant shall revise the tree preservation plan to indicate which trees to be removed, if any, are located within sensitive land areas on the site. If trees of 12 inch caliper size or greater are to be removed from sensitive land areas, a tree removal permit shall be required to authorize their removal.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO APPROVAL OF THE FINAL PLAT:**

Submit to the Engineering Department (Brian Rager, 639-4171, ext. 318) for review and approval:

30. Prior to approval of the final plat, the applicant shall pay an addressing fee in the amount of \$540.00. (STAFF CONTACT: Kit Church, Engineering).
31. The face of the final plat shall show a right-of-way dedication for SW Walnut Street to provide a total of 33 feet from the centerline.
32. The applicant shall cause a statement to be placed on the final plat to indicate that the proposed private street will be jointly owned and maintained by the private property owners who abut and take access from it.
33. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants and Restrictions (CC&R's) for this project, to be recorded with the final plat, that clearly lays out a maintenance plan and agreement for the proposed private street. The CC&R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure regulation of maintenance for the street. The applicant shall submit a copy of the CC&R's to the Engineering Department (Brian Rager) prior to approval of the final plat.
34. Prior to approval of the final plat, the applicant shall demonstrate that they have formed and incorporated a homeowner's association.
35. The applicant shall either place the existing overhead utility lines along SW Walnut Street underground as a part of this project, or they shall pay the fee in-lieu of undergrounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$ 27.50 per lineal foot. If the fee option is chosen, the amount will be \$ 1,238.00 and it shall be paid prior to approval of the final plat.
36. The applicant shall cause a statement to be placed on the final plat to indicate that the proposed private water quality/detention facility will be jointly owned and maintained by the developer or by the future homeowners within the subdivision.
37. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants and Restrictions (CC&R's) for this project, to be recorded with the final plat, that clearly lays out a maintenance plan and agreement for the proposed private water quality/detention facility. The CC&R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure regulation of maintenance for the facility. The applicant shall submit a copy of the CC&R's to the Engineering Department (Brian Rager) prior to approval of the final plat.
38. The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network. These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground

measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:

- ◆ GPS tie networked to the City's GPS survey.
- ◆ By random traverse using conventional surveying methods.

39. Final Plat Application Submission Requirements:

- A. Submit for City review four (4) paper copies of the final plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.
- B. The final plat and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.
- C. The right-of-way dedication for SW Walnut Street shall be made on the final plat.
- D. **NOTE:** Washington County will not begin their review of the final plat until they receive a letter from the City Engineering Department indicating: 1) that the City has reviewed the final plat and submitted comments to the applicant's surveyor, and 2) that the applicant has either completed any public improvements associated with the project, or has at least obtained the necessary public improvement permit from the City to complete the work.
- E. Once the City and County have reviewed the final plat, submit two mylar copies of the final plat for City Engineer's signature.

Submit to the Planning Department (Kevin Young, 639-4171, ext. 407) for review and approval:

- 40. The applicant shall provide a landscape buffer in compliance with the requirements of the landscape buffer C standard in Table 18.745.2 along the western edge of Lot 13. The applicant shall revise the landscape plan to comply with this requirement.
- 41. Prior to final subdivision plat approval, the applicant shall convey title for the proposed open space area in accordance with the requirements of Section 18.350.110.A.2.b of the Tigard Development Code.
- 42. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants, and Restrictions (CC & R's) for this project, to be recorded with the final plat, that clearly set out the requirement that native plantings that do not survive the first two years must be replaced, and that replacement plants must be maintained for two years following replacement. The CC & R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure that the plantings are maintained. The applicant shall submit a copy of the CC & R's to the Planning Department (Kevin Young) prior to approval of the final plat.
- 43. Per the requirements of Section 18.790.040.B, the applicant shall record a deed restriction for all trees designated to be preserved to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. A copy of the deed restriction documentation shall be reviewed and approved by the City prior to final plat approval.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO ISSUANCE OF BUILDING PERMITS:**

Submit to the Engineering Department (Brian Rager, 639-4171, ext. 318) for review and approval:

- 44. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a mylar copy of the recorded final plat.
- 45. The City Engineer may determine the necessity for, and require submittal and approval of, a construction access and parking plan for the home building phase. If the City Engineer deems such a plan necessary, the applicant shall provide the plan prior to issuance of building permits.
- 46. Prior to issuance of building permits within the subdivision, the City Engineer shall deem the public improvements substantially complete. Substantial completion shall be when: 1) all utilities are installed and inspected for compliance, including franchise utilities, 2) all local residential streets have at least one lift of asphalt, 3) any off-site street and/or utility improvements are substantially completed, and 4) all street lights are installed and ready to be energized. (NOTE: model home permits may be issued by the City apart from this condition, and in accordance with the City's model home policy).

Submit to the Planning Department (Kevin Young, 639-4171, ext. 407) for review and approval:

47. Prior to foundation inspections for individual homes, erosion control measures shall be in place.

**THE FOLLOWING CONDITIONS MUST BE RESOLVED
PRIOR TO ISSUANCE OF FINAL OCCUPANCY PERMITS:**

Submit to the Planning Department (Kevin Young, 639-4171, ext. 407) for review and approval:

48. The applicant shall re-vegetate all affected areas in compliance with Section 18.745.060 after construction activities are completed and prior to removal of erosion control measures.

**IN ADDITION, THE APPLICANT SHOULD BE AWARE OF THE FOLLOWING SECTIONS
OF THE COMMUNITY DEVELOPMENT CODE; THIS IS NOT AN EXCLUSIVE LIST:**

18.430.080 Improvement Agreement:

Before City approval is certified on the final plat, and before approved construction plans are issued by the City, the Subdivider shall:

1. Execute and file an agreement with the City Engineer specifying the period within which all required improvements and repairs shall be completed; and
2. Include in the agreement provisions that if such work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the subdivider.

The agreement shall stipulate improvement fees and deposits as may be required to be paid and may also provide for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.

18.430.090 Bond:

As required by Section 18.430.080, the subdivider shall file with the agreement an assurance of performance supported by one of the following:

1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the State of Oregon;
2. A surety bond executed by a surety company authorized to transact business in the State of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
3. Cash.

The subdivider shall furnish to the City Engineer an itemized improvement estimate, certified by a registered civil engineer, to assist the City Engineer in calculating the amount of the performance assurance.

The subdivider shall not cause termination of nor allow expiration of said guarantee without having first secured written authorization from the City.

18.430.100 Filing and Recording:

Within 60 days of the City review and approval, the applicant shall submit the final plat to the County for signatures of County officials as required by ORS Chapter 92.

Upon final recording with the County, the applicant shall submit to the City a mylar copy of the recorded final plat.

18.430.070 Final Plat Application Submission Requirements:

Three copies of the subdivision plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

The subdivision plat and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.

STREET CENTERLINE MONUMENTATION SHALL BE PROVIDED AS FOLLOWS:

Centerline Monumentation

In accordance with Oregon Revised Statutes 92.060, subsection (2), the centerline of all street and roadway rights-of-way shall be monumented before the City accepts a street improvement.

The following centerline monuments shall be set:

1. All centerline-centerline intersection points;
2. All cul-de-sac center points; and
3. Curve points, beginning and ending points (PC's and PT's).

All centerline monuments shall be set during the first lift of pavement.

Monument Boxes Required

Monument boxes conforming to City standards will be required around all centerline intersection points, cul-de-sac center points, and curve points.

The tops of all monument boxes shall be set to finish pavement grade.

18.810 Street & Utility Improvement Standards:

18.810.120 Utilities

All utility lines including, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface-mounted transformers, surface-mounted connection boxes, and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above.

18.810.130 Cash or Bond Required

All improvements installed by the subdivider shall be guaranteed as to workmanship and material for a period of one year following acceptance by the City.

Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the City Engineer.

The cash or bond shall comply with the terms and conditions of Section 18.810.180.

18.810.150 Installation Prerequisite

No land division improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements shall be undertaken except after the plans therefor have been approved by the City, permit fee paid and permit issued.

18.810.180 Notice to City Required

Work shall not begin until the City has been notified in advance.

If work is discontinued for any reason, it shall not be resumed until the City is notified.

18.810.200 Engineer's Certification

The land divider's engineer shall provide written certification of a form provided by the City that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, and are of high grade, prior to the City acceptance of the subdivision's improvements or any portion thereof for operation and maintenance.

**THIS APPROVAL SHALL BE VALID FOR 18 MONTHS FROM THE
EFFECTIVE DATE OF THE PLANNING COMMISSION'S DECISION.**

SECTION III. BACKGROUND INFORMATION

Site History:

The property currently contains a single-family residence and outbuildings. All buildings currently on site are proposed to be removed. A search of city records found no previous land use cases associated with this parcel.

Vicinity Information:

The site is located on the south side of SW Walnut Street, west of SW 121st Avenue across from SW 124th Avenue. Access to the site occurs via a 40-foot-wide "panhandle" from Walnut to the main body of the parcel. The panhandle is approximately 115 feet long. The site is bordered by underdeveloped property to the west and south, and by the Fyrestone subdivision to the east. Little development opportunity exists to the north, where single-family homes are currently developed along Walnut Street.

Site Information:

The subject site consists of approximately 4.15 acres and is currently zoned R-4.5. The western half of the site contains a creek, pond (heavily silted in), and associated wetlands. In general, the site slopes downhill from west to east reaching the bottom of a drainageway, which flows from south to north. Slopes on the east side of the drainageway are uphill from west to east. Slopes on the property range from 2% to 29%, with the western portion, where development is proposed, having the more gentle slopes.

SECTION IV. DECISION MAKING PROCEDURES, PERMITS AND USE

Use Classification: Section 18.130.020

Lists the Use Categories.

The applicant is proposing to construct 18 attached single-family dwelling units each on separate lots. This use is classified in Code Chapter 18.130 (Use Classifications) as Household Living. The site is located within the R-4.5, Low Density Residential District. Table 18.510.1 lists Household Living as a permitted use in the R-4.5 zone. Table 18.510.1 also states that attached single units are permitted in R-4.5 zones only as part of an approved planned development. The applicant has applied for planned development approval in conjunction with the subdivision.

Summary Land Use Permits: Chapter 18.310

Defines the decision-making type to which the land-use application is assigned.

This is a Planned Development/Subdivision, which is defined as a Type III-PC Application.

Decision Making Procedures: Chapter 18.390

Describes the decision-making procedures.

Type III procedures apply to quasi-judicial permits and actions that contain predominantly discretionary approval criteria. Type III-PC actions are decided by the Planning Commission with appeals to or review by the City Council.

SECTION V. NEIGHBORHOOD COMMENTS

The Tigard Community Development Code requires that property owners within 500 feet of the subject site be notified of the proposal, and be given an opportunity for written comments and/or oral testimony prior to a decision being made. In addition, the applicant is required to post the site with notice of the public hearing. Staff has verified that the site is posted. Other than a request to be notified when the staff report is completed, no comments have been received from neighbors or other interested parties.

SECTION VI. APPLICABLE REVIEW CRITERIA AND FINDINGS

A zone change is necessary to add a Planned Development overlay designation to the subject site, per the requirements of Section 18.350.020. The requested zone change is classified as a quasi-judicial zoning map amendment. The requested zone change does not require a comprehensive plan map amendment, and therefore may be determined by the Planning Commission through the Type III-PC decision process.

A. Zone Change: Standards for Making Quasi-Judicial Decisions: Chapter 18.380

A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial zoning map amendment shall be based on all of the following standards:

1 Demonstration of compliance with all applicable comprehensive plan policies and map designations;

The proposed change is consistent with the comprehensive plan policies and map designations because the comprehensive plan specifically recommends the use of the planned development process for development adjacent to sensitive land areas. Policy 3.2.4 of the City of Tigard Comprehensive Plan states, in part, that "Development on property adjacent to significant wetlands shall be allowed under the planned development section of the code."

2. Demonstration of compliance with all applicable standards of any provision of this code or other applicable implementing ordinance; and

The proposed zone change is in compliance with the requirements for planned development (PD) in Section 18.350.020, which require the establishment of a PD overlay zone. The proposed zone change is in compliance with all other applicable requirements.

3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application.

The developer has recognized that flexibility will be required to develop the subject parcel, due to the presence of sensitive land areas on the subject site. The PD process provides the needed flexibility to allow development to be clustered on the developable portion of the property. The base R-4.5 zoning was applied to a large area, which included this site. The adoption of the PD overlay zone will allow for a refinement of applicable zoning requirements based on the unique site constraints of the development site.

Based on these findings, staff recommends approval of the requested planned development overlay zone for the parcel identified as WCTM 2S103BC, Tax Lot 3900.

B. GENERAL PLANNED DEVELOPMENT STANDARDS

The applicant has requested a Planned Development (PD) overlay zone change for the subject property. The PD overlay requires developers to follow the Planned Development process for any proposal on affected sites. The Planned Development chapter provides for flexibility in development design and allows deviation from certain standards of the base zone. The following addresses compliance with the process and applicable base zone standards.

The Planned Development Process:

Section 18.350.030 states that there are three elements to the planned development approval process, as follows:

- ♦ **The approval of the planned development overlay zone;**
- ♦ **The approval of the planned development concept plan; and**
- ♦ **The approval of the detailed development plan.**

This application is for all three elements of the planned development process, overlay zone, concept plan, and detailed plan.

Applicability Of The Base Zone Development Standards:

Section 18.350.070 requires compliance to specific development standards: The provisions of the base zone are applicable as follows:

1. **Lot dimensional standards:** The minimum lot size, lot depth and lot width standards shall not apply except as related to the density computation under Chapter 18.715;

The proposed lots utilize allowed flexibility in the lot dimensional standards. As discussed later in this report, the project complies with density requirements.

2. **Site coverage:** The site coverage provisions of the base zone shall apply;

There is no site coverage requirement in the R-4.5 zone; therefore, this criterion is not applicable.

3. **Building height:** The building height provisions shall not apply; and

Although the height restriction does not apply, all proposed homes will be less than the 30-foot maximum height allowed in the R-4.5 zone.

4. **Structure setback provisions:**

- a. **Front yard and rear yard setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by Chapter 18.360;**

Buildings on Lots 7-12 maintain the required 15-foot rear yard setback in the R-4.5 zone. All other proposed homes will maintain at least a 10-foot side yard setback along the perimeter of the project. This is twice the required 5-foot side yard setback required in the R-4.5 zone.

- b. **The side yard setback provisions shall not apply except that all detached structures shall meet the Uniform Building Code (UBC) requirements for fire walls;**

The applicant has shown side yard setbacks within the project of 4 feet, which is in excess of the UBC setback requirement of 3 feet from the property line. The applicant has also shown 10-foot street side setbacks for homes on corner lots within the project. This setback complies with UBC standards as well.

- c. **Front yard and rear yard setback requirements in the base zone setback shall not apply to structures on the interior of the project except that: (1) A minimum front yard setback of 20 feet is required for any garage structure which opens facing a street; (2) A minimum front yard setback of eight feet is required for any garage opening for an attached single-family dwelling facing a private street as long as the required off-street parking spaces are provided**

All homes will be provided with a garage setback of at least 20 feet, which is in excess of the minimum requirement from a private street.

Other provisions of the base zone:

All other provisions of the base zone shall apply except as modified by this chapter.

Any additional provisions of the base zone are discussed within the body of this report or will be reviewed during the building permit phase.

FINDING: The planned development standards, and their applicability to the base zone standards are fully met.

PD Approval Criteria: 18.350.100

- B. **Specific planned development approval criteria. The Commission shall make findings that the following criteria are satisfied when approving or approving with conditions, the concept plan. The Commission shall make findings that the criteria are not satisfied when denying an application.**

1. **All the provisions of the land division provisions, Chapters 18.410, 18.420 and 18.430, shall be met;**

The applicant has applied to subdivide the property concurrently with the planned development approval; therefore, all subdivision criteria must be satisfied. Following is an analysis of compliance with the subdivision approval criteria in Section 18.430:

Preliminary Subdivision Plat Approval Criteria: 18.430.040

A. Approval criteria. The Approval Authority may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

- 1. The proposed preliminary plat complies with the applicable zoning ordinance and other applicable ordinances and regulations;**

The proposed plat complies with the zoning ordinance and other applicable ordinances and regulations.

- 2. The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92;**

The applicant has reserved the name "Blue Heron Park" with Washington County. The name reservation is good for two years and was received on January 17, 2001.

- 3. The streets and roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the City determines it is in the public interest to modify the street or road pattern; and**

There are no street stubs to this property from adjacent properties. The applicant has provided arguments for why public street connections are not needed to adjacent parcels from their development. These arguments are evaluated later in this report under discussion of the requested adjustment to the maximum allowed cul-de-sac length.

- 4. An explanation has been provided for all common improvements.**

The applicant has provided an explanation for all common improvements.

FINDING: The proposed development complies with all preliminary subdivision criteria.

Except as noted, the provisions of the following chapters shall be utilized as guidelines. A planned development need not meet these requirements where a development plan provides alternative designs and methods, if acceptable to the Commission, that promote the purpose of this section. In each case, the applicant must provide findings to justify the modification of the standards in the chapters listed in Subsection 3 below. The developer may choose to provide or the commission may require additional open space dedication and/or provision of additional amenities, landscaping or tree planting.

- a. Chapter 18.715, Density Computation and Limitations. Unless authorized below, density shall be governed by the density established in the underlying zoning district. The Commission may further authorize a density bonus not to exceed 10% as an incentive to increase or enhance open space, architectural character and/or site variation incorporated into the development. These factors must make a substantial contribution to objectives of the planned development. The degree of distinctiveness and the desirability of variation achieved shall govern the amount of density increase which the Commission may approve according to the following:**

- (1) A maximum of 3% is allowed for the provision of undeveloped common space;**
- (2) A maximum of 3% is allowed for landscaping; streetscape development; developed open spaces, plazas and pedestrian pathways and related amenities; recreation area development; and/or retention of existing vegetation;**
- (3) A maximum of 3% is allowed for creation of visual focal points; use of existing physical amenities such as topography, view, and sun/wind orientation;**
- (4) A maximum of 3% quality of architectural quality and style; harmonious use of materials; innovative building orientation or building grouping; and/or varied use of housing types.**

The applicant has requested density bonuses in the following amounts:

.49 dwelling units	3% for the undeveloped common space
.16 dwelling units	1% for streetscape development & the retention of existing vegetation.
.32 dwelling units	2% for the use of existing topography and views
.16 dwelling units	<u>1% for architectural quality and building grouping.</u>
1.13 dwelling units density bonus requested	

The applicant has proposed to preserve and enhance over 50,000 square feet of the site as open space in Tract C, as well as providing water quality and detention facilities in an enhanced natural area of approximately 40,000 square feet. These two open space tracts comprise approximately half of the development sites 180,774 square feet. Staff concurs with granting a 3% density bonus for their open space provision.

The applicant's private street design creates two "islands" within the street, which will contain 4 large Douglas Fir trees and a 20-inch diameter Western Red Cedar. This feature will serve to slow traffic and provide a pleasant streetscape that will be friendly to the pedestrian. Staff recommends granting the requested 1% density bonus for the proposed streetscape development.

The project's design "clusters" development on the less sensitive portion of the site and utilizes and enhances the sensitive area as an amenity for residents and neighbors. The natural topography is used to create views of the wetlands from some of the homes. Staff recommends granting the 2% density bonus for topography and views.

The proposed design nestles proposed homes into the wooded area, and orients buildings to minimize the "footprint" of development while serving to highlight the natural features of the site. The submitted building elevations will be harmonious with the natural setting of the site and will create a harmonious style within the development. Staff recommends granting the 1% density bonus for architectural quality and building grouping.

The requested density bonuses under the PD provisions do not exceed the 10% allowed (7% is requested). Granting these density bonuses would bring the allowed density on the site up to 17.31 dwelling units (16.18 + 1.13). The applicant has also requested a 4.3% density bonus for the retention of tree canopy as allowed under the provisions of Chapter 18.790. As discussed in that section, Staff recommends approval of the requested density bonus, allowing for the development of 18 dwelling units on the development site. Staff notes that if the site were not constrained with sensitive land areas, the maximum density allowed on the site would be approximately 21 dwelling units.

b. Chapter 18.730, Exceptions to Development Standards;

None apply. This criterion is not applicable.

c. Chapter 18.795, Visual Clearance Areas;

The applicant has proposed planting one Cornus Nuttallii tree within the vision clearance area to the east of the intersection of the private street and Walnut Street. The tree is not anticipated to create a vision clearance problem, but must be maintained in accordance with the requirements of Chapter 18.795.

There is an existing 36 inch diameter fir tree within the right-of-way, but outside the paved width of Walnut Street that does not currently interfere with vision clearance for the intersection. Staff believes that the proposed improvements to the intersection would not result in a vision clearance conflict. However, if the proposed improvements do result in a configuration which is determined to be unsafe, the applicant will need to remove the tree. Tree mitigation for 50% of the total caliper inches of the tree will be required if the tree is removed. Staff will determine if there is a vision clearance problem during the public improvement process.

d. Chapter 18.745, Landscaping and Screening;

The applicant has proposed locating street trees on the individual lots within the subdivision and along the edge of the street. Twelve Red Sunset Maples and 12 Pacific Dogwoods are proposed. These will satisfy the street tree planting requirements.

Typically, for attached single-family development abutting existing detached single-family development, buffer standard "A" is required, which constitutes a 10-foot setback covered with lawn or living groundcover. The proposed design provides a 10-foot minimum separation from building to property line. Individual yards will be landscaped with lawn or living groundcover. This standard will be met without need of a condition.

e. Chapter 18.765, Off-street Parking and Loading Requirements;

The applicant has proposed that all homes will be provided with 2-car garages and at least 20 feet in front of the garages, which will more than adequately provide for the 1.75 parking spaces required for attached 3-bedroom, single-family dwellings. The parking spaces comply with applicable dimensional requirements.

f. Chapter 18.705, Access, Egress and Circulation; and

Each dwelling will be served by a driveway that is at least the 10-foot minimum required width. The proposed private street improvements are evaluated under discussion of compliance with street and utility standards in Section 18.810 later in this report.

g. Chapter 18.780, Signs.

No signs are proposed in conjunction with this development. Any future signage will be subject to the sign permit requirements in Chapter 18.780.

FINDING: Staff finds that the proposed development is consistent with the guidelines listed in the Planned Development Section 18.350.100.B.2.

2. In addition, the following criteria shall be met:

a. Relationship to the natural and physical environment:

- (1) The streets, buildings and other site elements shall be designed and located to preserve the existing trees, topography and natural drainage to the greatest degree possible;**

The site elements are designed and located to preserve the existing trees, topography and natural drainage to the greatest degree possible. Approximately 74% of the trees on the site over 12 inches in diameter will be preserved. As discussed in the sensitive lands analysis, on-site grading is limited, given the topography of the site. The proposed development will preserve and enhance the natural drainage function on the site.

- (2) Structures located on the site shall not be in areas subject to ground slumping and sliding;**

The applicant has submitted a geotechnical report, which is discussed in more detail in the sensitive lands review analysis later in this report. The geotechnical report finds that structures may be located as proposed without danger of ground slumping or sliding, if the recommendations of the report are followed. Compliance with the recommendations of the geotechnical report is a recommended condition of the sensitive lands analysis.

- (3) There shall be adequate distance between on-site buildings and other on-site and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection;**

Buildings along the perimeter of the development are at least 10 feet from the property line. The side yard setback reduction to 4 feet provides more than the 3-foot separation required for building code/fire separation purposes. The buildings are clustered in units of two, which will allow for adequate light and air circulation.

- (4) The structures shall be oriented with consideration for the sun and wind directions, where possible; and**

Eight dwelling units are oriented well for sun exposure, 4 units are oriented for the predominant southwest wind direction. Site constraints do not allow further building orientation for sun and wind.

- (5) Trees preserved to the extent possible. Replacement of trees is subject to the requirements of Chapter 18.790, Tree Removal.**

Trees are preserved to the maximum extent possible, given the density and infrastructure needs of the developable portion of the site. For a more complete discussion of this issue, refer to the discussion of compliance with the requirements of Chapter 18.790. Findings from that analysis are hereby incorporated by reference as findings under this criterion.

b. Buffering, screening and compatibility between adjoining uses:

- (1) Buffering shall be provided between different types of land uses, e.g., between single-family and multi-family residential, and residential and commercial uses;**

As discussed previously, the proposed development is in compliance with the standard landscaped buffer requirement between detached single-family and attached single-family dwellings.

- (2) In addition to the requirements of the buffer matrix (Table 18.745.1), the following factors shall be considered in determining the adequacy and extent of the buffer required under Chapter 18.745:**

- (a) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;**
- (b) The size of the buffer needs in terms of width and height to achieve the purpose;**
- (c) The direction(s) from which buffering is needed;**
- (d) The required density of the buffering; and**
- (e) Whether the viewer is stationary or mobile.**

The nearest abutting development is the single-family dwellings located northwest of the development site. Clusters of trees will be preserved in this area. Because of the proximity of the proposed home on Lot 13 to the existing single-family dwelling to the west, staff recommends the following condition to enhance the buffering and screening in that location:

CONDITION: Staff recommends that the applicant provide a landscape buffer in compliance with the requirements of the landscape buffer C standard in Table 18.745.2 along the western edge of Lot 13. The applicant shall revise the landscape plan to comply with this requirement.

- (3) On-site screening from view from adjoining properties of such activities as service areas, storage areas, parking lots and mechanical devices on roof tops shall be provided and the following factors shall be considered in determining the adequacy of the type and extent of the screening: (a) What needs to be screened; (b) The direction from which it is needed; and (c) Whether the screening needs to be year- round.**

The street and driveway will be contained within the center of the development site. There are no proposed storage areas or other proposed activities that would require screening under this criterion.

- c. Privacy and noise: Non-residential structures which abut existing residential dwellings shall be located on the site or be designed in a manner, to the maximum degree possible, to protect the private areas on the adjoining properties from view and noise;**
- d. Private outdoor area -- multi-family use:**
- e. Shared outdoor recreation areas -- multi-family use:**

These criteria relate to non-residential or multi-family structures and are not applicable to the proposed attached single-family development.

f. Access and circulation:

- (1) The number of allowed access points for a development shall be provided in Chapter 18.705;**

The proposed development complies with the access standards in Chapter 18.705.

- (2) All circulation patterns within a development must be designed to accommodate emergency vehicles; and**

Referral comments from Tualatin Valley Fire and Rescue indicate that the proposed circulation system for the development is acceptable if their conditions are addressed. See Section VIII of this report for more details.

- (3) Provisions shall be made for pedestrian and bicycle ways if such facilities are shown on an adopted plan.**

No pedestrian or bicycle ways are shown on an adopted plan; however, the project is providing a pedestrian/bicycle way at the terminus of the private street to facilitate pedestrian/bicycle circulation to future development to the west.

g. Landscaping and open space:

- (1) Residential Development: In addition to the requirements of subparagraphs (4) and (5) of section a of this subsection, a minimum of 20 percent of the site shall be landscaped;**

35% of the development site will be landscaped.

h. Public transit:

- (1) Provisions for public transit may be required where the site abuts a public transit route. The required facilities shall be based on:**

The development does not abut a public transit route. The nearest transit route is at the corner of 121st and Walnut. Tri-Met officials have been notified of the proposed development and have not indicated a need for transit facilities at this location.

i. Signs:

No signage is proposed with this application.

j. Parking:

- (1) All parking and loading areas shall be generally laid out in accordance with the requirements set forth in Chapter 18.765;**
- (2) Up to 50% of required off-street parking spaces for single-family attached dwellings may be provided on one or more common parking lots within the planned development as long as each single-family lot contains one off-street parking space.**

Parking will comply with all applicable requirements of Chapter 18.765. Please refer to the previous discussion of compliance with parking standards in Section 18.350.100.B.2.e. No parking lots are proposed in conjunction with the proposed development.

- k. Drainage: All drainage provisions shall be generally laid out in accordance with the requirements set forth in Chapter 18.775, and the criteria in the adopted 1981 master drainage plan;**

Storm drainage complies, or will be conditioned to comply with applicable City of Tigard and USA requirements. For a more detailed discussion of storm drainage, see the discussion of compliance with the requirement of Chapter 18.775 later in this report.

- l. Floodplain dedication: Where landfill and/or development is allowed within or adjacent to the 100-year floodplain, the City shall require consideration of the dedication of sufficient open land area for a greenway adjoining and within the floodplain. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway with the floodplain in accordance with the adopted pedestrian bicycle pathway plan.**

No areas within the 100-year floodplain exist on the site. This criterion is not applicable.

FINDING: The proposed development complies, or can be conditioned to comply with all planned development approval criteria contained in Section 18.350.100 of the Tigard Development Code.

18.350.110 Shared Open Space

A. Requirements for shared open space. Where the open space is designated on the plan as common open space the following applies:

1. The open space area shall be shown on the final plan and recorded with the Director; and
2. The open space shall be conveyed in accordance with one of the following methods:
 - a. By dedication to the City as publicly-owned and maintained as open space. Open space proposed for dedication to the City must be acceptable to it with regard to the size, shape, location, improvement and budgetary and maintenance limitations;
 - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions suitable to the City Attorney for guaranteeing the following:
 - (1) The continued use of such land for the intended purposes;
 - (2) Continuity of property maintenance;
 - (3) When appropriate, the availability of funds required for such maintenance;
 - (4) Adequate insurance protection; and
 - (5) Recovery for loss sustained by casualty and condemnation or otherwise.
 - c. By any method which achieves the objectives set forth in Subsection 2 above of this section.

The applicant has indicated that the open space areas on the site will be conveyed to the developments' Homeowner's Association. To ensure compliance with City of Tigard standards, the following conditions shall apply:

CONDITION: Prior to final subdivision plat approval, the applicant shall convey title for the proposed open space area in accordance with the requirements of Section 18.350.110.A.2.b of the Tigard Development Code.

18.370.20 Adjustments

- A. Purpose.** The purpose of this section is to establish two classes of special variances:
1. "Development adjustments" which allow modest variation from required development standards within proscribed limits. Because such adjustments are granted using "clear and objective standards," these can be granted by means of a Type I procedure, as opposed to the more stringent standards of approval and procedure for variances.
 2. "Special adjustments" which are variances from development standards which have their own approval criteria as opposed to the standard approval criteria for variances contained in Section 18.370.010C.

18.370.020.C.9. Adjustments for street improvement requirements (Chapter 18.810). By means of a Type II procedure, as governed by 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements, based on findings that the following criterion is satisfied: Strict application of the standards will result in an unacceptably adverse impact on existing development, on the proposed development, or on natural features such as wetlands, steep slopes or existing mature trees. In approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits of strict application of the standards.

The applicant has requested an adjustment to the maximum allowed cul-de-sac length of 200 feet, per Table 18.810.1. The proposed private cul-de-sac is approximately 500 feet in length. The applicant has argued that providing a public street connection through the proposed development would result in fewer trees preserved on the site and further impacts to sensitive areas on the site.

Accommodating the required street width and turning radius for a public street would require that a greater portion of the developable area of the site be devoted to streets than would be allowed for a private street. The proposed private street is 30 feet wide, with a 24-foot paved width. The narrowest possible public street would be 42 feet wide, with a 24-foot paved width. The curve radius for a public street would also require more of the site to be devoted to the roadway. The panhandle portion of the site is only 40 feet wide, which would not fully accommodate the narrowest public street. The applicant has also provided a circulation plan that shows how access may be provided to adjacent undeveloped properties in the future without the need for a public street connection through the development site.

Staff finds that requiring a public street connection to the property to the west rather than a private cul-de-sac in excess of the 200-foot cul-de-sac standard would result in adverse impacts to existing development, including the removal of additional healthy trees on the development site, and additional traffic and noise impacts that would result from a through street connection in this location.

Staff finds that granting the adjustment would result in reduced impacts to trees on the site, and would allow development to occur at a greater separation from the sensitive areas of the site. The applicant has amply demonstrated that access to adjacent underdeveloped parcels can be provided by other means.

FINDING: Based on the preceding analysis, staff recommends that the requested adjustment to the cul-de-sac length be approved. The street will serve no more than 20 dwelling units and will be constructed with a 24-foot paved width, as required for streets with less than 200 average daily trips.

DESIGN COMPATIBILITY STANDARDS: CHAPTER 18.720

Applicability of Provisions: Section 18.720.020

These provisions apply to all multi-family and attached single-family residential projects in zoning districts R-4.5 through R-40 that abut property zoned for single-family residential development, R-1 through R-4.5. These standards are applicable to this site because the property abuts existing single-family development.

DESIGN STANDARDS: 18.720.030.

A. Density Transition

- 1. Building height shall not exceed two stories or 25 feet within 30 feet of the property line or three stories or 35 feet within 50 feet of the property line.**

The submitted elevations show that building height, as measured per Figure 18.120.1, will not exceed 25 feet within 30 feet of the property line. All proposed homes will be 25 feet tall or less.

- 2. Building planes for multi-family dwellings within 50 feet of the common property line(s) and abutting public rights of way shall be subject to the following standards...**

This criterion is not applicable to the proposed attached single-family dwelling development.

- B. Front facades. All primary ground-floor common entries or individual unit entries of street frontage units shall be oriented to the street, not to the interior or to a parking lot. The front elevation of large structures must be divided into smaller areas or planes of 500 square feet or less. Projecting features such as porches, balconies, bays and dormer windows and roof pediments are encouraged for structures facing a street to create visual interest.**

The front facades of the proposed homes will face the private street. They will contain projecting features, as desired.

- C. Main entrance. Primary structures must be oriented with their main entrance facing the street upon which the project fronts. If the site is on a corner, it may have its main entrance oriented to either street or at the corner.**

All main entrances will face the private street.

D. Unit definition. Each dwelling unit shall be emphasized by including a roof dormer or bay windows on the street-facing elevation, or by providing a roof gable or porch that faces the street. Ground-level dwelling units shall include porches that shall be at least 48 square feet in area with no dimension less than six feet.

All dwelling units will incorporate street facing gables and porches as required. Proposed porches exceed the required 48 square foot minimum size and 6-foot minimum dimensional requirements.

E. Roof lines. Roof-line offsets shall be provided at intervals of 40 feet or less to create variety in the massing of structures and to relieve the effect of a single, long roof. Roof line offsets shall be a minimum 4-foot variation either vertically from the gutter line or horizontally.

Roof line offsets are provided, as required.

F. Trim detail. Trim shall be used to mark all building roof lines, porches, windows and doors that are on a primary structure's street-facing elevation(s).

This requirement is met.

G. Mechanical equipment. Roof-mounted mechanical equipment, other than vents or ventilators, shall be located and constructed so as to be screened from ground-level view. Screening shall be integrated with exterior building design.

No roof-mounted mechanical equipment is proposed.

H. Parking. Parking and loading areas may not be located between the primary structure(s) and the street upon which the structure fronts. If there is no alley and motor vehicle access is from the street, parking must be provided:

1. In a garage that is attached to the primary structure;
2. In a detached accessory structure located at least 50 feet from the front property line; or
3. In a parking area at the side or rear of the site.

Parking will be provided in attached garages, which is one of the acceptable options for compliance.

I. Pedestrian circulation.

1. The on-site pedestrian circulation system shall be continuous and connect the ground-level entrances of primary structure(s) to the following:
 - a. Streets abutting the site;
 - b. Common buildings such as laundry and recreation facilities;
 - c. Parking areas;
 - d. Shared open space and play areas;
 - e. Abutting transit stops; and
 - f. Any pedestrian amenity such as plazas, resting areas and viewpoints.
2. There shall be at least one pedestrian connection to an abutting street frontage for each 200 linear feet of street frontage.

Pedestrian connections will be provided from every home to the abutting private street. The sidewalk along one side of the street will provide access to Walnut Street to the north, as well as to the open space area.

FINDING: The proposed development complies with all design compatibility requirements.

ENVIRONMENTAL PERFORMANCE STANDARDS: CHAPTER 18.725

These standards require that federal and state environmental laws, rules and regulations be applied to development within the City of Tigard. Section 18.725.030 Performance Standards regulates: Noise, visible emissions, vibration and odors.

Noise. For the purposes of noise regulation, the provisions of Sections 7.41.130 through 7.40.210 of the Tigard Municipal Code shall apply.

Visible Emissions.

Vibration. No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.

Odors. The emissions of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.

Glare and heat. No direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and; 1) there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and 2) these regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.

Insects and rodents. All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

As this is an attached single-family project, which is permitted within planned developments in the R-4.5 zone, the applicable performance standards are considered to be met; however, ongoing maintenance to meet these standards shall be maintained.

FINDING: This standard is met.

SENSITIVE LANDS: CHAPTER 18.775

C. Sensitive lands permits issued by the Director.

1. The Director shall have the authority to issue a sensitive lands permit in the following areas by means of a Type II procedure, as governed in Section 18.390.040, using approval criteria contained in Section 18.775.070 C-E:
 - a. Drainageways;
 - b. Slopes that are 25% or greater or unstable ground; and
 - c. Wetland areas which are not regulated by other local, state, or federal agencies and are designated as significant wetlands on the Comprehensive Plan Floodplain and Wetland Map.
2. Sensitive lands permits shall be required for the areas in Section 18.775.020 D1 above when any of the following circumstances apply:
 - a. Ground disturbance(s) or land form alterations involving more than 50 cubic yards of material;
 - b. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50 percent of the market value of the structure prior to the improvement or the damage requiring reconstruction;
 - c. Residential and non-residential structures intended for human habitation; and
 - d. Accessory structures which are greater than 528 square feet in size, outside floodway areas.

18.775.50 General Provisions for Wetlands

- A. **Code compliance requirements.** Wetland regulations apply to those areas meeting the definition of wetland in Chapter 18.120 of the Community Development Code, areas meeting Division of State Lands wetland criteria and to land adjacent to and within 25 feet of a wetland. Wetland locations may include but are not limited to those areas identified as wetlands in "Wetland Inventory and Assessment for the City of Tigard, Oregon," Fishman Environmental Services, 1994.
- B. **Delineation of wetland boundaries.** Precise boundaries may vary from those shown on wetland maps; specific delineation of wetland boundaries may be necessary. Wetland delineation will be done by qualified professionals at the applicant's expense.

The development site contains sensitive land areas, including areas with slopes of 25% or greater, wetlands, and drainageways.

Sensitive Lands Permits: 18.775.070

D. With excessive slopes. The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit on slopes of 25% or greater or unstable ground based upon findings that all of the following criteria have been satisfied:

- 1. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;**

The applicant's grading plan indicates that grading on site will be limited to adding fill to build-up Lots 4, 5, 6 and 7, as well as excavating the series of stormwater detention basins. Areas of proposed grading are outside of steep slope areas. The applicant's submitted geotechnical report, prepared by GeoPacific Engineering, indicates that the fill will adequately support the proposed development if the recommendations of the report are followed. As discussed later in this report in relation to the requirements of Chapter 18.810, the applicant shall be required to abide by the recommendations of the geotechnical report. The proposed grading is necessary to allow for development of the less sensitive area of the site, as well as to best accommodate and treat stormwater from the development. The proposed development plan minimizes site disturbances as much as possible, while allowing for development on the site.

- 2. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;**

The applicant's geotechnical report includes recommendations regarding erosion control and ground stabilization in fill areas. The report finds that if these recommendations are followed, erosion and ground instability will not result. Additionally, the service provider letter from the Unified Sewerage Agency (USA) requires the use of appropriate Best Management Practices for Erosion Control. If required, these measures will ensure that the above criterion is met.

- 3. The structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock; and**

The recommendations of the geotechnical report include detailed requirements for the placement of fill and the construction of building foundations on the development site. The report specifically mentions compressible/organic soil conditions on a portion of the site, but states that the proposed development can be constructed if the engineer's recommendations are followed.

- 4. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening.**

The service provider letter from USA requires re-vegetation with native species within the vegetated corridor around the drainageway and associated wetlands. In other areas, the requirements of Section 18.745.060 will need to be imposed to ensure that the necessary replanting occurs.

FINDING: The development proposal will comply with the above excessive slopes criteria if the following conditions are imposed, and if the recommendations of the geotechnical report are followed, as is recommended elsewhere in this report:

CONDITIONS:

- ♦ The applicant shall use appropriate Best Management Practices for Erosion Control, as required in the USA service provider letter.
- ♦ The applicant shall re-vegetate all affected areas in compliance with Section 18.745.060 after construction activities are completed and prior to removal of erosion control measures.

E. Within drainageways. The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit within drainageways based upon findings that all of the following criteria have been satisfied:

1. **The extent and nature of the proposed land form alteration or development will not create site disturbances to the extent greater than that required for the use;**

The applicant has proposed creating a series of stormwater detention basins within the 50-foot wetland buffer established by USA. No encroachment is proposed within the drainageway itself, which flows through the center of the wetland area.

2. **The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;**

This criterion has been adequately addressed under the discussion of Criterion 18.775.070.C.2 above.

3. **The water flow capacity of the drainageway is not decreased;**

The proposed development will not alter the water flow capacity of the existing drainageway.

4. **Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening;**

Conditions of the USA's service provider letter require that all non-native and invasive vegetation within the 50-foot vegetated corridor around the wetland/drainageway be removed. The service provider letter also requires the applicant to enhance and restore native vegetation within the vegetated corridor. To begin to address this requirement, the applicant has submitted a mitigation planting plan that has been reviewed and approved by USA staff.

5. **The drainageway will be replaced by a public facility of adequate size to accommodate maximum flow in accordance with the adopted 1981 Master Drainage Plan;**

The drainageway will remain intact. No replacement is necessary.

6. **The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands approvals shall be obtained;**

The USA service provider letter requires a concurrence of wetland boundaries from the Division of State Lands and/or the Army Corps of Engineers. The letter also requires that the applicant gain approval for all work within sensitive areas from DSL and USACOE.

7. **Where land form alterations and/or development are allowed within and adjacent to the 100-year floodplain, the City shall require the consideration of dedication of sufficient open land area within and adjacent to the floodplain in accordance with the Comprehensive Plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian bicycle pathway plan.**

The site does not contain a 100-year floodplain. This criterion is not applicable.

FINDINGS: All applicable sensitive lands criteria for development in drainageway areas are met, or can be conditioned to be met, as follows:

CONDITION: The applicant shall be required to meet all conditions of the USA service provider letter, at the appropriate stages of the development process.

- F. **Within wetlands. The Director shall approve, approve with conditions or deny an application request for a sensitive lands permit within wetlands based upon findings that all of the following criteria have been satisfied:**

1. **The proposed land form alteration or development is neither on wetland in an area designated as significant wetland on the Comprehensive Plan Floodplain and Wetland Map nor is within 25 feet of such a wetland;**

As discussed in the analysis of compliance with water resources criteria, which follows this section, the drainageway and wetland areas on the development site are classified as a minor stream and adjacent/isolated wetland. As such, there is no water resources standard riparian setback applied under water resources requirements, as indicated in Table 18.797.1. USA has indicated the need for a 50-foot water quality buffer/vegetated corridor around the wetland and drainageway, but has indicated that the placement of stormwater treatment facilities within the 50-foot buffer is the preferred alternative of the three options presented to them.

The applicant has proposed a limited amount of grading to create the stormwater treatment facility within the 50-foot buffer and within a small portion of the wetland area. No other encroachment is proposed within the 50-foot buffer area. USA comments indicate that the proposed work will result in the enhancement of the currently marginal and degraded condition of the vegetated corridor surrounding the stream and wetland. Since the drainageway and wetland are classified as a minor stream and isolated wetland, the City of Tigard does not apply the 25-foot setback from the wetland that is imposed for more significant water features. The proposed stormwater facility is allowed as long as it remains outside of the wetland itself. This issue is discussed in more detail under the following discussion of compliance with Water Resources requirements.

- 2. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than the minimum required for the use;**

Of the 3 options presented to USA staff for stormwater treatment facilities on the site, this option was chosen as the preferred option. The applicant has included the details of the alternatives analysis required by USA in the submittal materials. The proposal does the best job of minimizing the disturbances to the sensitive area.

- 3. Any encroachment or change in on-site or off-site drainage which would adversely impact wetland characteristics have been mitigated;**

The proposed water quality and detention system, as well as enhancement and re-planting within the vegetated corridor, will result in the improvement of wetland characteristics on the site.

- 4. Where natural vegetation has been removed due to land form alteration or development, erosion control provisions of the Surface Water Management program of Washington County must be met and areas not covered by structures or impervious surfaces will be replanted in like or similar species in accordance with Chapter 18.745, Landscaping and Screening;**

This criterion has been adequately addressed in the preceding discussion of criterion 18.775.070.D.4 and will be met with the requirement of compliance with all conditions of the USA service provider letter.

- 5. All other sensitive lands requirements of this chapter have been met;**

All other sensitive land requirements have been met, or shall be conditioned to be met, as discussed in this section.

- 6. The provisions of Chapter 18.790, Tree Removal, shall be met;**

As discussed later in this report, all provisions of Chapter 18.790 shall be met.

- 7. Physical Limitations and Natural Hazards, Floodplains and Wetlands, Natural Areas, and Parks, Recreation and Open Space policies of the Comprehensive Plan have been satisfied.**

The proposed development is consistent with the cited Comprehensive Plan Policies.

FINDING: The applicant's proposal complies, or has been previously conditioned to comply, with all applicable requirements for development in wetland areas.

WATER RESOURCES (WR) OVERLAY DISTRICT CHAPTER 18.79 **18.797.30 Applicability and Generalized Mapping**

- A. **WR overlay district application.** The WR overlay district applies to all significant wetlands and streams, and applicable riparian setback and water quality buffer areas, that appear on the Tigard Wetlands and Stream Corridors Map. The standards and procedures of this chapter:
1. Apply to all development proposed on property located within, or partially within, the WR overlay district;
 2. Are in addition to the standards of the underlying zone; and
 3. In cases of conflict, supersede the standards of the underlying zone.
- B. **The Tigard wetlands and stream corridors map.** The Tigard wetlands and stream corridors map identifies, generally, the tops-of-bank, wetland edges, riparian setbacks and water quality buffers for the following significant water resources:
1. The Tualatin River riparian corridor;
 2. Major stream riparian corridors;
 3. Minor streams; and
 4. Isolated wetlands.
- C. **Standard riparian setbacks and USA water quality buffers.** The applicant shall be responsible for surveying and mapping the precise location of the top-of-bank, wetland edge, riparian setback and/or USA water quality buffer at the time of application submittal.

The water resources overlay district standards are applicable to the proposed development because the wetland area on the site is shown on the Significant Wetlands and Stream Corridor Map, as referenced in Section 18.797.030.A. The map shows the wetland area in the northeast corner of the development site, in the approximate location of the wetland survey conducted by the applicant. The wetland survey conducted by the applicant found two very small wetland areas just to the northwest of the large wetland pond feature on the site. The survey also found that a “finger” of the wetland extends to the southwest from the main body of the wetland/pond area.

The applicant has proposed developing a series of stormwater detention basins with the 50-foot vegetated corridor surrounding the stream and wetland, in association with wetland enhancement plantings. Because the proposed enhancement and replanting will occur within 10 feet of the edge of the wetland and drainageway boundaries, a Type II Water Resources review is required, per Table 18.797.2.

The applicant has proposed a limited amount of grading within the “finger” portion of the wetland area (1,890 square feet) to accommodate one of the detention basins. Table 18.797.2 indicates that grading and the placement of fill is prohibited within a minor stream and/or isolated wetland. The applicant has been notified of this concern and has argued that the “finger” portion of the wetland is not indicated on the Tigard Wetlands and Stream Corridors Map. However, as indicated in Section 18.797.030, Subsections A, B, and C above, the map is intended to show only generalized locations for significant wetlands and streams within Tigard. The applicant is responsible for surveying and mapping the precise locations of specific wetlands and streams. The fact that the “finger” portion of the wetland is contiguous with the larger wetland feature makes it difficult for staff to find that this portion of the wetland is not subject to the provisions of the Water Resources Overlay District. The applicant has also argued that the “finger” portion of the wetland is a relatively recent development and should not be considered part of the historic wetland mapped in the Fishman Study. Staff finds that the Water Resources code requirements do not allow for differentiation between recent and historic wetland areas. The proposed grading within the “finger” portion of the wetland area does not comply with this prohibition, therefore, the following condition shall apply:

CONDITION: The applicant shall redesign the proposed stormwater facility so that it does not result in grading or filling within the wetland areas on the site. The stormwater facility may be located within the 50-foot vegetated corridor, but may not be located within the wetland or drainageway.

18.797.80 Development Standards

The following shall apply to all development, including native vegetation removal and excavation, within the WR overlay district. No application for a use identified in Section 18.797.050 shall be deemed complete until the applicant has addressed each of these standards in writing.

A. Alternatives considered. Except for stream corridor enhancement, most Type II and III uses are expected to develop outside of water resource and riparian setback areas. Therefore, Type II and III development applications must carefully examine upland alternatives for the proposed use, and explain the reasons why the proposed development cannot reasonably occur outside of the water resource or riparian setback area.

The applicant submitted three alternative designs to USA. USA staff chose the proposed design as the best alternative. The design minimizes impacts to sensitive areas, while providing enhancements to the quality of wetland and stream areas. For the most part, the proposed design will locate development outside of the water resource area, as is desired. The proposed work within the vegetated corridor will serve to enhance the resource value of the degraded wetland area and will be accompanied by enhancement of additional areas outside of the vegetated corridor.

B. Minimize siting impacts. The proposed use shall be designed, located and constructed to minimize excavation, loss of native vegetation, erosion, and adverse hydrological impacts on water resources.

1. For Type II and III uses, the civil engineer with experience in water quality must certify that any adverse water quality impacts of the development proposal will be minimized consistent with best management practices;

The applicant has submitted a letter from the project civil engineer certifying that any adverse water quality impacts will be minimized consistent with best management practices.

2. For all uses, the development shall be located as far from the water resource, and use as little of the water resource or riparian setback area, as possible, recognizing the operational needs of the proposed development.

As conditioned above, no part of the development will intrude into wetland or stream areas. Water quality buffers are not applied to minor streams and isolated wetlands, per Table 18.797.1. The stormwater detention facility within USA's 50-foot vegetated corridor has been reviewed and approved by USA. The greatest impact of the development, including all 18 dwelling units, will be located on the western side of the site away from the sensitive land areas.

C. Construction materials and methods. Where development within the riparian area is unavoidable, construction materials or methods used within the riparian setback area shall minimize damage to water quality and native vegetation.

Although there is no riparian setback area applied to this development, USA's service provider letter requires that best management practices be utilized to minimize damage to water quality and native vegetation.

D. Minimize flood damage. Above-ground residential structures shall not be permitted within the WR overlay district, where such land is also within the 100-year floodplain. On-site flood storage capacity shall not decrease as a result of development. The cumulative effects of any proposed development shall not reduce flood storage capacity or raise base flood elevations on- or off-site. Any new commercial or industrial land development proposed within the 100-year floodplain shall be designed consistent with Chapter 18.775, Sensitive Lands.

This criterion is not applicable, as no portion of the site is within the 100-year floodplain. However, on-site flood storage capacity on site will increase as a result of the construction of the stormwater detention facility.

E. Avoid steep slopes. Within 50 feet of any water resource, excavation and vegetation removal shall be avoided on slopes of 25% or greater and in areas with high erosion potential (as shown on SCS maps), except where necessary to construct public facilities or to ensure slope stability.

Sheet 2 of the applicant's submittal indicates the location of steep slope areas on the site, as well as the location of the 50-foot buffer line. As shown, most of the steeply sloped areas are outside the 50-foot buffer zone. The proposed grading avoids the steeply sloped areas on the site. The geotechnical report submitted by the applicant did not indicate any potential erosion problems that could not be accommodated with standard erosion control measures, which will be required.

- F. **Minimize impacts on existing vegetation.** The following standards shall apply when construction activity is proposed in areas where vegetation is to be preserved.
1. Temporary measures used for initial erosion control shall not be left in place permanently;
 2. Work areas on the immediate site shall be carefully identified and marked to reduce potential damage to trees and vegetation;
 3. Trees shall not be used as anchors for stabilizing working equipment. During clearing operations, trees and vegetation shall not be permitted to fall or be placed outside the work area;
 4. In areas designated for selective cutting or clearing, care in falling and removing trees and brush shall be taken to avoid injuring trees and shrubs to be left in place;
 5. Stockpiling of soil, or soil mixed with vegetation, shall not be permitted on a permanent basis.

The applicant has submitted an arborist's report indicating which trees will be preserved and which will be removed from the site. Much of the other vegetation within the 50-foot buffer line is non-native, invasive vegetation, which USA requires to be replaced with native species, as indicated on the submitted mitigation planting plan. Tree Protection Standards from the arborist's report include the measures required under this criterion. Therefore, the following condition shall apply:

CONDITION: The applicant shall abide by all Tree Protection Standards included in the arborist's report prepared by Walter H. Knapp, dated February 20, 2001. Required tree preservation fencing shall be installed prior to site grading or clearing and shall remain in place until final occupancy permits are issued for the proposed homes.

- G. **Vegetation mitigation plan.** If a Type II or III use is proposed within a water resource site or riparian setback area, or mitigation is proposed as a method to reduce the riparian setback in accordance with Section 18.797.100, a mitigation plan shall be prepared and implemented.

1. The applicant shall be responsible for re-vegetating areas temporarily disturbed by excavation on a 1:1 basis;

The applicant has provided a mitigation planting plan that has met with the approval of USA and which meets this standard.

2. Where approval is granted to reduce the riparian setback area, the applicant shall be responsible for mitigating for the reduced setback by replacing non-native vegetation within the remaining, protected riparian setback area on a 1.5:1 basis. That is, for each 100 square feet of riparian setback that is lost to development, at least 150 square feet of existing disturbed area within the riparian setback or wetland shall be re-planted with native plant species;

This criterion is not applicable because the applicant has not requested to reduce a riparian setback area.

3. The re-vegetation plan shall provide for the replanting and maintenance of native plant species designed to achieve pre-disturbance conditions. The applicant shall be responsible for replacing any native plant species that do not survive the first two years after planting, and for ensuring the survival of any replacement plants for an additional two years after their replacement.

The submitted planting plan will achieve this purpose. To ensure that the planting plan is followed, the following condition shall apply:

CONDITION: Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants, and Restrictions (CC & R's) for this project, to be recorded with the final plat, that clearly set out the requirement that native plantings that do not survive the first two years must be replaced, and that replacement plants must be maintained for two years following replacement. The CC & R's shall obligate the private property owners within the subdivision to create a homeowner's

association to ensure that the plantings are maintained. The applicant shall submit a copy of the CC & R's to the Planning Department (Kevin Young) prior to approval of the final plat.

- H. **Water and sewer infiltration and discharge.** Water and sanitary sewer facilities shall be designed, located and constructed to avoid infiltration of floodwaters into the system, and to avoid discharges from such facilities to streams and wetlands.

No water or sewer is proposed near the water resource area.

- I. **On-site systems.** On-site septic systems and private wells shall be prohibited within the WR overlay district.

No septic systems are proposed within this development.

- J. **Erosion control plan.** If a Type II or III use is proposed within a water resource site or riparian setback area, the following erosion control standards shall apply within the WR overlay district:

1. Specific methods of soil erosion and sediment control shall be used during construction to minimize visible and measurable erosion;
2. The land area to be grubbed, stripped, used for temporary placement of soil, or to otherwise expose soil shall be confined to the immediate construction site only;
3. Construction activity will take place during the dry season (June-October), whenever feasible, and the duration of exposure of soils shall be kept to a minimum during construction;
4. Exposed soils shall be covered by mulch, sheeting, temporary seeding or other suitable material following grading or construction, until soils are stabilized. During the rainy season (November through May), soils shall not be exposed for more than 7 calendar days. All disturbed land areas which will remain unworked for 21 days or more during construction, shall be mulched and seeded;
5. During construction, runoff from the site shall be controlled, and increased runoff and sediment resulting from soil disturbance shall be retained on-site. Temporary diversions, sediment basins, barriers, check dams, or other methods shall be provided as necessary to hold sediment and runoff;
6. A stabilized pad of gravel shall be constructed at all entrances and exists to the construction site. The stabilized gravel pad shall be the only allowable entrance or exit to the site;
7. Topsoil removal for development shall be stockpiled and reused on-site to the degree necessary to restore disturbed areas to their original or enhanced condition, or to assure sufficient stable topsoil for re-vegetation. Additional soil shall be provided if necessary to support re-vegetation;
8. The removal of all sediments which are carried into the streets, water resources or on to adjacent property, are the responsibility of the applicant. The applicant shall be responsible for cleaning up and repairing streets, catch basins, water resource areas and adjacent properties, where such properties are affected by sediments or mud. In no case shall sediments be washed into storm drains, ditches or drainageways;
9. Any other relevant provisions of the *Erosion Prevention and Sediment Control Plans Technical Guidance Handbook* (City of Portland Bureau of Environmental Services and Unified Sewerage Agency of Washington County, Revised February 1994), required by the Planning Director.

- K. **Plan implementation.** A schedule of planned erosion control and re-vegetation measures shall be provided, which sets forth the progress of construction activities, and mitigating erosion control measures. An approved Erosion Control of Re-vegetation Plan shall be implemented and maintained as follows:

1. Erosion control measures shall be installed prior to any stripping or excavation work.
2. The applicant shall implement the measures and construct facilities contained in the approved Erosion Control Plan in a timely manner. During active construction, the applicant shall inspect erosion control measures daily, and maintain, adjust, repair or replace erosion control measures to ensure that they are functioning properly.
3. Eroded sediment shall be removed immediately from pavement surfaces, off-site areas, and from the surface water management system, including storm drainage inlets,

- ditches and culverts.
4. **Water containing sediment shall not be flushed into the surface water management system, wetlands or streams without first passing through an approved sediment filtering facility or device.**
 5. **In addition, the applicant shall call for City inspection, prior to the foundation inspection for any building, to certify that erosion control measures are installed in accordance with the erosion control plan.**

To ensure compliance with the requirements of these criteria, the following conditions shall apply:

CONDITIONS:

- ♦ The applicant shall revise their erosion control plan to address and include all requirements noted in Sections 18.797.080 (Subsections J and K).
- ♦ No site grading or clearing will be allowed until all necessary erosion control measures are in place.
- ♦ Prior to foundation inspections for individual homes, erosion control measures shall be in place.

FINDING: Subject to the satisfaction of the recommended conditions, the requirements of the Water Resources Overlay District will be met.

TREE REMOVAL: CHAPTER 18.790

A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided with a site development review application. The tree plan shall include identification of all existing trees, identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper, which trees are to be removed, protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

The applicant has submitted an arborist's report and a tree preservation plan per the requirements of Chapter 18.790. The report states that there are 162 trees on the site that are 12 inches in diameter or larger. Of these, 15 are identified as hazardous trees, 114 are designated to be preserved, and 33 trees are slated for removal. Based on these figures, the arborist concludes that no tree mitigation is required for the trees to be removed, because the retention of 75% or more of the existing trees over 12 inches in caliper requires no mitigation, per Section 18.790.030.B.2.d. The City Forester has provided the following comments regarding the arborist's report:

I am concerned about eight trees that are included in the tree inventory that have a classification of Dead, Dying, Diseased, or Dangerous. According to the report, these eight trees (numbers 661, 662, 663, 684, 685, 686, 693, and 704) are considered dangerous due to their susceptibility to wind damage based on their live crown ratios. For the most part, I do agree with the live crown ratio assessments, but I disagree with the trees susceptibility to wind damage in their current state and growing conditions. These eight trees are intermediate trees or over-topped. They are located within a stand of larger trees, which provide protection from heavy winds. I would agree, however, that wind damage is a major threat to the trees if they remain standing while the larger adjacent trees are removed. Although there are certainly no guarantees that the trees' tops cannot break out as the currently exist, I believe that the trees should not be omitted from the mitigation requirements due to possible wind damage.

Planning staff agrees with the City Forester that if the trees are currently healthy, but would be rendered a hazard through the development process, the loss of the trees should be mitigated. Section 18.790.020.A of the Tree Removal standards defines a "hazardous tree" as a tree which, "by reason of disease, infestation, age, or other condition presents a known and immediate hazard to persons or to public or private property." The hazard posed by the aforementioned trees is not "immediate", but would be created after surrounding trees are removed. Based on the City Forester's comments, of the 162 trees on the site, 7 should be considered diseased or hazardous, 114 are designated to be preserved, and 41 will need to be removed (and mitigated for). Thus, approximately 74% of the trees over 12 inch caliper will be retained on site. Per Section 18.790.030.B.2.c., if 50-75% of the trees on site are retained, 50% of the trees to be removed must be mitigated. The applicant has not prepared a tree mitigation plan because their analysis indicated that mitigation would not be required. To ensure that the mitigation requirements are fulfilled, the following conditions should be applied:

CONDITIONS:

- ♦ The applicant shall prepare tree mitigation materials to indicate the total number of caliper inches of trees to be removed. The applicant shall indicate how they intend to mitigate for 50% of the total number of caliper inches to be removed.
- ♦ The applicant shall submit a bond to provide for the planting of the required caliper inches of trees. An approximate figure for the cost of purchasing, transporting, planting, and maintaining a 2-inch caliper tree is \$200. The applicant shall specify how they propose to mitigate for the required caliper inches to be mitigated. All mitigation trees shall be a minimum of 2-inch caliper size. If the applicant intends to mitigate on-site by planting trees, a revised landscaping plan shall be required that indicates which trees are to be counted towards the mitigation total. Street trees and trees required to meet the buffer and parking lot tree requirements shall not be counted toward the mitigation trees.
- ♦ Per the requirements of Section 18.790.040.B, the applicant shall record a deed restriction for all trees designated to be preserved to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. A copy of the deed restriction documentation shall be reviewed and approved by the City prior to final plat approval.
- ♦ The applicant shall revise the tree preservation plan to indicate which trees to be removed, if any, are located within sensitive land areas on the site. If trees of 12 inch caliper size or greater are to be removed from sensitive land areas, a tree removal permit shall be required to authorize their removal.

18.790.40 Incentives for Tree Retention

A. Incentives. To assist in the preservation and retention of existing trees, the Director may apply one or more of the following incentives as part of development review approval and the provisions of a tree plan according to Section 18.790.030:

1. **Density bonus.** For each 2% of canopy cover provided by existing trees over 12 inches in caliper that are preserved and incorporated into a development plan, a 1% bonus may be applied to density computations of Chapter 18.715. No more than a 20% bonus may be granted for any one development. The percentage density bonus shall be applied to the number of dwelling units allowed in the underlying zone;

The arborist's report indicates that 71% of the existing canopy cover provided by trees over 12 inches in diameter will be preserved on the site. Based on this figure, the applicant could request a density bonus up to the maximum allowed of 20%. The applicant is requesting a 4.3% density bonus under these provisions to bring the total allowed density on the site up to 18 dwelling units. Staff recommends that the requested density bonus be granted.

G. IMPACT STUDY: SECTION 18.390.040.B.e

Requires that the applicant shall include an impact study. The study shall address, at a minimum, the transportation system, including bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact of the development on the public at large, public facilities systems, and affected private property users. In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with the dedication of real property interest, or provide evidence which supports the conclusion that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

The applicant has submitted an impact study addressing the required elements above.

ROUGH PROPORTIONALITY ANALYSIS

Based on a transportation impact study prepared by Mr. David Larson for the A-Boy Expansion/Dolan/Resolution 95-61, TIF's are expected to recapture 32 percent of the traffic impact of new development. Presently, the TIF for each residential trip that is generated is \$213.

According to the Washington County TIF ordinance, 32 percent of a projects impacts are met by its TIF assessment in Tigard. This leaves 68% unmitigated. The actual cost of system improvements per trip generated by new development on the Tigard street system can be determined by the following equation (Larson, Mackenzie Engineering, Dolan Findings, June 1995):
\$213 divided by .32 equals \$665.6

(\$213 is the residential use trip rate per trip TIF assessment according to the Washington County TIF ordinance effective July 1, 2000).

According to the ITE manual figures and the TIF ordinance, a single-family residential unit generates 10 average weekday trips per dwelling unit per day. As there are eighteen units proposed, 180 trips are generated per day for this site.

Less mitigated costs

The applicant is required to dedicate an additional 3-feet of right-of-way along the project's 45-feet of frontage along Walnut Street. At an approximate cost of \$3 per square foot, this is valued at approximately \$400. The applicant is also required to dedicate the sidewalk and bicycle path connecting Walnut Street to the property to the west. The value of this property is estimated to be approximately \$7,230.

Estimate of Unmitigated Impacts

Full Impact	180 x \$665.6=.....	\$119,808
Less TIF Assessment.....	180 x \$213=.....	\$38,340
Less mitigated costs.....		\$7,230
Estimate of Unmitigated Impacts		\$74,238

FINDING: Using the above cost factors, it can be determined that the unmitigated impacts exceed the costs of the conditions imposed and, therefore, the conditions are roughly proportional and justified.

Street And Utility Improvements Standards (Section 18.810):

Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:

Streets:

Improvements:

Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.

Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.

Minimum Rights-of-Way and Street Widths: Section 18.810.030(E) requires a major collector street to have a 60 to 80-foot right-of-way width and 44-foot paved section. Other improvements required may include on-street parking, sidewalks and bikeways, underground utilities, street lighting, storm drainage, and street trees.

This site lies adjacent to SW Walnut Street, which is classified as a major collector on the City of Tigard Transportation Plan Map. At present, there is approximately 30 feet of ROW from centerline, according to the most recent tax assessor's map. The applicant should dedicate additional ROW adjacent to this site to provide 33 feet from the centerline.

SW Walnut Street is currently paved, but not improved to current City standards. A traffic study was prepared by Stein Engineering to address the existing sag vertical curve to the east of this site. Detailed discussion of the sight distance issue, as well as other issues, will be discussed in that section.

The site has a narrow frontage on SW Walnut Street, approximately 45 feet. This width is just wide enough to accommodate the proposed private street entrance. The proposed location of the new private street intersection is across from the existing SW 124th Avenue. There will be more discussion about the proposed private street in a later section.

The applicant's plans show the private street will extend into the development and terminate near the western boundary. Sheet 7 is a future street plan that shows that a pedestrian/bike path could be constructed to the western boundary to tie into a future pedestrian/bike path. Significant discussion between the applicant and staff took place regarding whether or not a public street should be extended through this site and stub to the west. Sheet 7 shows that a public street is really not needed. The parcels to the west and south could be adequately developed with other public streets, and a public street stub from this property is not necessary.

Future Street Plan and Extension of Streets: Section 18.810.030(F) states that a future street plan shall be filed which shows the pattern of existing and proposed future streets from the boundaries of the proposed land division. This section also states that where it is necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed and a barricade shall be constructed at the end of the street. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.

As was stated previously, a future street plan (Sheet 7) was provided that shows how lands to the west and south can be developed without a public street extending from this development. The applicant has applied for an adjustment to this standard in accordance with 18.370.030. The applicant states that extension of a public street would have adverse impacts on the existing trees and the wetland area. In addition, the orientation and width of the flagpole of this parcel would make construction of a standard public street very difficult. Based upon the fact that the adjacent parcels can be developed without a public street extending from this parcel, Staff agrees that a public street is not needed.

Cul-de-sacs: 18.810.030.K states that a cul-de-sac shall be no more than 200 feet long, shall not provide access to greater than 20 dwelling units, and shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation:

- ♦ All cul-de-sacs shall terminate with a turnaround. Use of turnaround configurations other than circular, shall be approved by the City Engineer; and
- ♦ The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
- ♦ If a cul-de-sac is more than 300 feet long, a lighted direct pathway to an adjacent street may be required to be provided and dedicated to the City.

The proposed private street extends into this site approximately 510 feet, which exceeds the 200-foot length standard. The applicant has also requested an adjustment to this standard. They cite the same reasons associated with the preclusion of a public street. Based upon the previous findings, Staff agrees that a public street connection is not needed, thereby creating the need for a dead-end street. Since a public street is not required, a dead-end private street is acceptable. The applicant's plan shows that the street will terminate in a hammerhead turnaround, which will meet fire code requirements.

Since this private street will be over 300 feet long, and since it is very likely that the adjacent parcels will eventually be developed, the applicant should construct a pedestrian/bike path to the western boundary of this site, to facilitate future connection and extension. This pedestrian/bike path should be lighted and placed in a tract to be dedicated to the City.

Street Alignment and Connections: Section 18.810.030(G) requires all local streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is precluded when it is not possible to redesign, or reconfigure the street pattern to provide required extensions. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

There are no existing public streets stubbing into this site, and there is no need for a public street to be extended (based upon previous findings). The private street will not be extended to the western boundary, but the applicant should construct a pedestrian/bike path to that boundary as per 18.810.030.K.

Grades and Curves: Section 18.810.030.M states that grades shall not exceed ten percent on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet), and:

1. **Centerline radii of curves shall not be less than 700 feet on arterials, 500 feet on major collectors, 350 feet on minor collectors, or 100 feet on other streets; and**
2. **Streets intersecting with a minor collector or greater functional classification street, or streets intended to be posted with a stop sign or signalization, shall provide a landing averaging five percent or less. Landings are that portion of the street within 20 feet of the edge of the intersecting street at full improvement.**

The new private street will have a maximum gradient of approximately 2.89%, which will meet this standard.

Access to Arterials and Major Collectors: Section 18.810.030.P states that where a development abuts or is traversed by an existing or proposed arterial or major collector street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design shall include any of the following:

- ♦ **A parallel access street along the arterial or major collector;**
- ♦ **Lots of suitable depth abutting the arterial or major collector to provide adequate buffering with frontage along another street;**
- ♦ **Screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial or major collector; or**
- ♦ **Other treatment suitable to meet the objectives of this subsection;**
- ♦ **If a lot has access to two streets with different classifications, primary access should be from the lower classification street.**

Walnut Street is classified as a major collector street. Although the development site has frontage on Walnut Street, the area of frontage must be used to accommodate the proposed private street connection. No lots or residences are proposed that would directly abut Walnut Street. No access to the new lots is proposed, or would be permitted, directly onto SW Walnut Street.

Private Streets: Section 18.810.030.S states that design standards for private streets shall be established by the City Engineer. The City shall require legal assurances for the continued maintenance of private streets, such as a recorded maintenance agreement. Private streets serving more than six dwelling units are permitted only within planned developments, mobile home parks, and multi-family residential developments.

As was stated previously, a private street is proposed to serve this development. The total number of units to be developed in this project is 18. However, this development will be a common wall development, which by their nature, take on a different appearance than a typical single-family detached subdivision. Because of this, the City Council determined that common wall developments could be served from private streets. Therefore, a private street is acceptable.

The proposed width of the private street is 24 feet, curb-to-curb. Traffic generation from the proposed development is estimated to be below 200 average daily trips; therefore, per Table 18.810.1, a 24-foot paved width will adequately accommodate traffic from the development. This width is appropriate for 18 units, but parking will not be allowed on either side of the street. The applicant must install "No Parking" signs on both sides of this street.

The applicant is attempting to save five larger fir and cedar trees along the private street entrance by incorporating two "tree islands". The islands would create travel lanes of approximately 12 feet on either side. Section 902.2.2.1 of the Uniform Fire Code (UFC) states that the minimum unobstructed width of a roadway that would serve fire trucks shall be 20 feet. However, the Fire Marshall's office of Tualatin Valley Fire & Rescue (TVFR) has allowed restrictions such as islands, provided the channel width is not less than 12 feet, and the restriction does not extend beyond the typical length of a fire truck (35 to 40 feet). Based on this allowance, the applicant's proposal will be acceptable. The longest island is approximately 40 feet, which is acceptable to TVFR.

The proposed name of the private street is "SW Blue Heron Place", which is acceptable to the City Engineer.

The applicant shall place a statement on the face of the final plat indicating the private street(s) will be owned and maintained by the properties that will be served by it/them. In addition, the applicant shall record Conditions, Covenants and Restrictions (CC&R's) along with the final plat that will clarify how the private property owners are to maintain the private street(s). These CC&R's shall be reviewed

and approved by the City prior to approval of the final plat. The City's public improvement design standards require private streets to have a pavement section equal to a public local street. The applicant will need to provide this type of pavement section.

Block Designs - Section 18.810.040.A states that the length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.

Block Sizes: Section 18.810.040.B.1 states that the perimeter of blocks formed by streets shall not exceed 1,800 feet measured along the right-of-way line except:

- ♦ Where street location is precluded by natural topography, wetlands or other bodies of water or, pre-existing development or;
- ♦ For blocks adjacent to arterial streets, limited access highways, major collectors or railroads.
- ♦ For non-residential blocks in which internal public circulation provides equivalent access.

The proposed private cul-de-sac will not form or be a part of a continuous block. Therefore, this standard is not applicable.

Section 18.810.040.B.2 also states that bicycle and pedestrian connections on public easements or right-of-ways shall be provided when full street connection is not possible. Spacing between connections shall be no more than 330 feet, except where precluded by environmental or topographical constraints, existing development patterns, or strict adherence to other standards in the code.

For the reasons discussed previously in relation to the requested variance to cul-de-sac length, staff has determined that a public street connection to abutting properties to the west and south is not necessary. The applicant has proposed extending the sidewalk along one side of the private street to the western edge of the development, in order to provide a potential pedestrian and bicycle connection to future development to the west. As discussed elsewhere in this section, the applicant shall be required to dedicate the area of the sidewalk and path to the public. The proposal satisfies the above criterion.

Lots - Size and Shape: Section 18.810.060(A) prohibits lot depth from being more than 2.5 times the average lot width, unless the parcel is less than 1.5 times the minimum lot size of the applicable zoning district.

Although some of the proposed lots do not appear to meet this standard, the planned development criteria allow for flexibility in lot dimensional standards. Therefore, this criterion is not applicable.

Lot Frontage: Section 18.810.060(B) requires that lots have at least 25 feet of frontage on public or private streets, other than an alley. In the case of a land partition, 18.420.050.A.4.c applies, which requires a parcel to either have a minimum 15-foot frontage or a minimum 15-foot wide recorded access easement. In cases where the lot is for an attached single-family dwelling unit, the frontage shall be at least 15 feet.

Nearly all of the proposed lots comply with this standard; however, planned development criteria allow for flexibility in lot dimensional standards, as noted above. Therefore, this criterion is not applicable.

Sidewalks: Section 18.810.070.A requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets.

Sidewalks are not required on a private street. However, the applicant is proposing to construct a sidewalk on one side of the new private street.

Sanitary Sewers:

Sewers Required: Section 18.810.090.A requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.

Over-sizing: Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

There is an existing 8-inch public line in SW Walnut Street that has adequate capacity to serve this site. The applicant's plan indicates they will install a new public manhole over the existing public line, and extend a new public sewer line into the site within the private street. This new public sewer line is shown to stop short of the western boundary. Since the grades of the property to the west rise above those on this site, the new public sewer could feasibly serve the adjacent parcel. Therefore, the applicant will be required to extend the new sewer line to the western boundary.

Storm Drainage:

General Provisions: Section 18.810.100.A states requires developers to make adequate provisions for storm water and flood water runoff.

Accommodation of Upstream Drainage: Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 2000 and including any future revisions or amendments).

The grades of this site fall primarily to the southeast. Currently, any runoff from this site flows into the existing wetland and drainageway along the eastern portion of the site. The proposed plan shows that all onsite runoff will be collected and conveyed toward that wetland and drainageway. The size of the new storm line will be sufficient to handle the flows from this development. Since a private street will serve this development, the new storm line will also be considered privately owned and maintained.

There are existing parcels that border this site that could contribute sheet flows into the back yards of the new lots. The developer should install additional private storm lines in the back yards of the uphill lots to pick up any possible runoff.

Effect on Downstream Drainage: Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage agency in 2000 and including any future revisions or amendments).

In 1997, the Unified Sewerage Agency (USA) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide onsite detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

As was previously stated, the onsite runoff currently flows into the wetland and drainageway along the eastern portion of the site. The applicant's plan maintains that general plan, but proposes to locate their water quality and detention facility within a portion of the current 50-foot buffer and a portion of the existing wetland. USA has reviewed the applicant's proposal and issued a Service Provider Letter. USA is in favor of the plan, because the applicant is proposing to enhance a significant portion of the existing buffer, create additional buffer, and create additional wetland area to compensate for the encroachment. Staff is also in favor of this plan because the end result will be a much more appealing wetland and buffer area. The existing buffer is degraded with significant blackberry growth. The applicant will be required to comply with the conditions of approval listed in the USA Service Provider Letter.

The newly created water quality swale and detention ponds will be sized to accommodate the additional flows created by this development. The preliminary sizing calculations indicate the detention volume, required for this development is approximately 5,800 cubic feet. The applicant's engineer indicates they will provide in excess of 5,800 cubic feet.

Bikeways and Pedestrian Pathways:

Bikeway Extension: Section 18.810.110.A states that developments adjoining proposed bikeways identified on the City's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or right-of-way.

No proposed bicycle or pedestrian paths are shown through the development site on the City's adopted pedestrian/bikeway plan. However, the applicant has proposed extending the sidewalk along the private street to connect to the property to the west. As previously discussed, the sidewalk will be required to be dedicated to the public, in compliance with the requirements of this chapter. The applicant is proposing to construct a pathway with stairs, from the private street to the proposed water quality facility. The homeowners of this development must maintain the pathway and stairs.

Utilities:

Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:

- ♦ The developer shall make all necessary arrangements with the serving utility to provide the underground services;
- ♦ The City reserves the right to approve location of all surface mounted facilities;
- ♦ All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
- ♦ Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

Exception to Under-Grounding Requirement: Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay a fee in-lieu of under-grounding.

There are existing overhead utility lines along SW Walnut Street. If the fee in-lieu is proposed, it is equal to \$27.50 per lineal foot of street frontage that contains the overhead lines. The frontage along this site is 45 lineal feet; therefore the fee would be \$1,238.00.

ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:

Traffic Study Findings:

A traffic impact report was submitted by Stein Engineering, dated May 8, 2000. This report makes mention of a current sight distance issue at the proposed site access. There is a sag vertical curve to the east of this site. Drivers entering SW Walnut Street, from the site access, will have adequate long-range sight distance, but any westbound vehicle will not be visible for approximately one second (while in the low point of the sag curve). This development will not have a significant number of northbound, left-turning vehicles, and the one-second lack of sight distance is not significant. Stein calculated that the level of service (LOS) of the intersection of the new private street and SW Walnut Street will be at LOS B, which is acceptable. They recommend the applicant clear some of the existing vegetation along SW Walnut Street to improve the sight distance. Staff concurs with this finding and recommends the applicant not make any changes to the existing sag vertical curve to the east.

Stein reviewed the need for a left turn lane on SW Walnut Street at the new private driveway location. He notes that the warrants for a left turn lane are marginally met, but that left turning vehicles during the PM peak hour would only have to wait approximately 3.2 seconds for a gap in traffic to make the turn. He also notes that once SW Gaarde Street is opened to SW Walnut Street, the overall traffic volumes on SW Walnut Street will decrease, and the warrants would no longer be met. Since Stein wrote their report, SW Gaarde Street has been opened to SW Walnut Street. Based upon Stein's findings, a left turn lane at the new private street location is not warranted and should not be installed. Stein recommends an alternate mitigation feature of a new advanced intersection warning sign (MUTCD W2-1), that could be located to the east of this site. The sign would warn westbound motorists that they are approaching an intersection. Staff concurs with this recommendation.

The other study intersection reviewed by Stein was at SW Walnut Street/SW 121st Avenue. He notes that with signalization, the LOS at this intersection will be at LOS C, which is acceptable. The County is in the process of constructing a signal at this intersection, and it should be completed by Fall 2001.

Public Water System:

This site will be served from the City's public water system in SW Walnut Street. The Public Works Department will need to review and approve of the overall water line layout for this development prior to construction. The City may require a master meter at the subdivision entrance, thereby rendering the onsite water line as a private line with private meters. The homeowner's association would then need to arrange to pay for the monthly water usage of the development.

Storm Water Quality:

The City has agreed to enforce Surface Water Management (SWM) regulations established by the Unified Sewerage Agency (USA) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

Prior to construction, the applicant shall submit plans and calculations for a water quality facility that will meet the intent of the USA Design Standards. In addition, the applicant shall submit a maintenance plan for the facility that must be reviewed and approved by the City prior to construction.

As was stated previously, the applicant's plan indicates they will create an onsite biofiltration swale for treatment of the new stormwater runoff. Since this development is served from a private street, and since the storm drainage system will be private, this water quality facility will also be private. The preliminary sizing calculations indicate the length of the swale will need to be approximately 102 lineal feet. The plan shows that they will have a swale approximately 140 feet in length, which is more than adequate. They have also included a maintenance plan for the facility.

This swale is to be located adjacent to the proposed detention ponds, and is included in the buffer and wetland encroachment area. The applicant will need to comply with the conditions of approval issued in the USA Service Provider Letter.

Grading and Erosion Control:

USA Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per USA regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb five or more acres of land. Since this site is over five acres, the developer will be required to obtain an NPDES permit from the City prior to construction. This permit will be issued along with the site and/or building permit.

A final grading plan shall be submitted showing the existing and proposed contours. The plan shall detail the provisions for surface drainage of all lots, and show that they will be graded to insure that surface drainage is directed to the street or a public storm drainage system approved by the Engineering Department. For situations where the back portions of lots drain away from a street and toward adjacent

lots, appropriate private storm drainage lines shall be provided to sufficiently contain and convey runoff from each lot.

The applicant has provided a geotechnical report, per Appendix Chapter 33 of the UBC, by GeoPacific Engineering, for the proposed grading slope construction. GeoPacific states that the site can feasibly accommodate the proposed development. The recommendations of the report will need to be incorporated into the final grading plan and a final construction supervision report must be filed with the Engineering Department prior to issuance of building permits.

The design engineer shall also indicate, on the grading plan, which lots will have natural slopes between 10% and 20%, as well as lots that will have natural slopes in excess of 20%. This information will be necessary in determining if special grading inspections and/or permits will be necessary when the lots develop.

Since this site is less than five acres in size, a NPDES permit is not required.

Address Assignments:

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard and within the Urban Service Boundary (USB). An addressing fee in the amount of \$30.00 per address shall be assessed. This fee shall be paid to the City prior to approval of the final plat.

For this project, the addressing fee will be \$540.00 (18 lots X \$30/address = \$540.00).

Survey Requirements

The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network. These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:

- ♦ GPS tie networked to the City's GPS survey.
- ♦ By random traverse using conventional surveying methods.

SECTION VII. OTHER STAFF COMMENTS

The Tigard Building Division has reviewed this proposal and provided the following comment:

- ♦ Fire hydrants and access to be approved by Tualatin Valley Fire & Rescue.

The City of Tigard Operations Utility Manager has reviewed the proposal and provided the following comments:

- ♦ All stormwater facilities, including the water quality tract, shall be privately owned and maintained by a homeowner's association or other private entity.
- ♦ A 15-foot wide public utility easement will be needed centered over the public sanitary facilities within the development.
- ♦ The applicant should set the new sanitary manhole over the existing sanitary line if grades and other utility conflicts allow.
- ♦ The proposed 8-inch public water line within the development will not be allowed. Instead, the applicant shall install, at the property line, a double detector check assembly for fire hydrants in the development. The applicant will install either a master meter at the property line with a double check valve assembly, or will bank individual water meters on Walnut Street, within the right-of-way.

The City of Tigard Property Manager has reviewed the proposal and provided the following comment:

- ♦ The proposed stairway/path to the detention facility should be provided with hand-rails and should be of an approved design.

The Tigard Police Department, and the City of Tigard Long-Range Planning Division have reviewed the proposal and indicated that they have no objections to the proposal.

The City of Tigard City Forester has reviewed the proposal and his comments are included in the preceding discussion of compliance with Tree Removal requirements.

SECTION VIII. AGENCY COMMENTS

The Tualatin Valley Fire and Rescue Department has reviewed the proposal and offered the following comments:

- ♦ The gates at the entrance shall be provided with an access option for fire apparatus. Options include an Opticom activated opener or a Knox brand key switch.
- ♦ Where fire apparatus roadways are less than 28 feet wide, "NO PARKING" signs shall be installed on both sides of the roadway and in turnarounds as needed. Where fire apparatus roadways are more than 28 feet wide but less than 32 feet wide, "NO PARKING" signs shall be installed on one side of the roadway and in turnarounds as needed. Where fire apparatus roadways are 32 feet wide or more, parking is not restricted. (UFC Sec. 902.2.4)
- ♦ Signs shall read "NO PARKING – FIRE LANE – TOW AWAY ZONE, ORS 98.810 - 98.812" and shall be installed with a clear space above ground level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have black or red letters and border on a white background. (UFC Sec. 901.4.5.1)
- ♦ Fire hydrant locations shall be identified by the installation of reflective markers. The markers shall be blue. They shall be located adjacent and to the side of the centerline of the access roadway that the fire hydrant is located on. In case that there is no center line, then assume a centerline, and place the reflectors accordingly. (UFC Sec. 901.4.3)
- ♦ The minimum available fire flow for single-family dwellings and duplexes shall be 1,000 gallons per minute. Fire flow documentation shall be provided. If the structure(s) is (are) 3,600 square feet or larger, the required fire flow shall be determined according to UFC Appendix Table A-III-A-1. (UFC Appendix III-A, Sec. 5)
- ♦ Approved fire apparatus access roadways and firefighting water supplies shall be installed and operational prior to stockpiling combustibles on-site or the commencement of combustible construction. (UFC Sec. 8704)

The Unified Sewerage Agency of Washington County has reviewed this proposal and has offered comments that have been incorporated into this report.

The Oregon Division of State Lands has reviewed the proposal and has offered the following comment:

- ♦ If the stormwater detention facility is within the stream wetland area, a removal/fill permit will be required. It appears the development will not impact the delineated wetland area.

Northwest Natural Gas has reviewed the proposal and offered the following questions:

- ♦ The street cross-section needs to be clarified. Does it change between TL 4100 and 4200? Will there be a public utility easement?

The Oregon Department of Environmental Quality, Washington County Planning Department, US Army Corps of Engineers, Oregon Department of Fish and Wildlife, Portland General Electric, TCI Cable, and Verizon, were notified, but no comments were submitted.

SECTION IX. CONCLUSION

At the June 11, 2001 public hearing regarding the Blue Heron subdivision, the Planning Commission voted to deny the application, based on the finding that the development would adversely effect the welfare of the City.

At the hearing, additional materials were submitted, including a letter from Margie Kessler, of 12425 Alberta Street; a letter from Douglas and Nancy Lou Nash, of 12270 Alberta Street; a letter from Julie Rau and Jim Vandehey, of 12430 SW Walnut Street; and a revised tree inventory from the applicant. Copies of these submitted materials are attached to this final order.

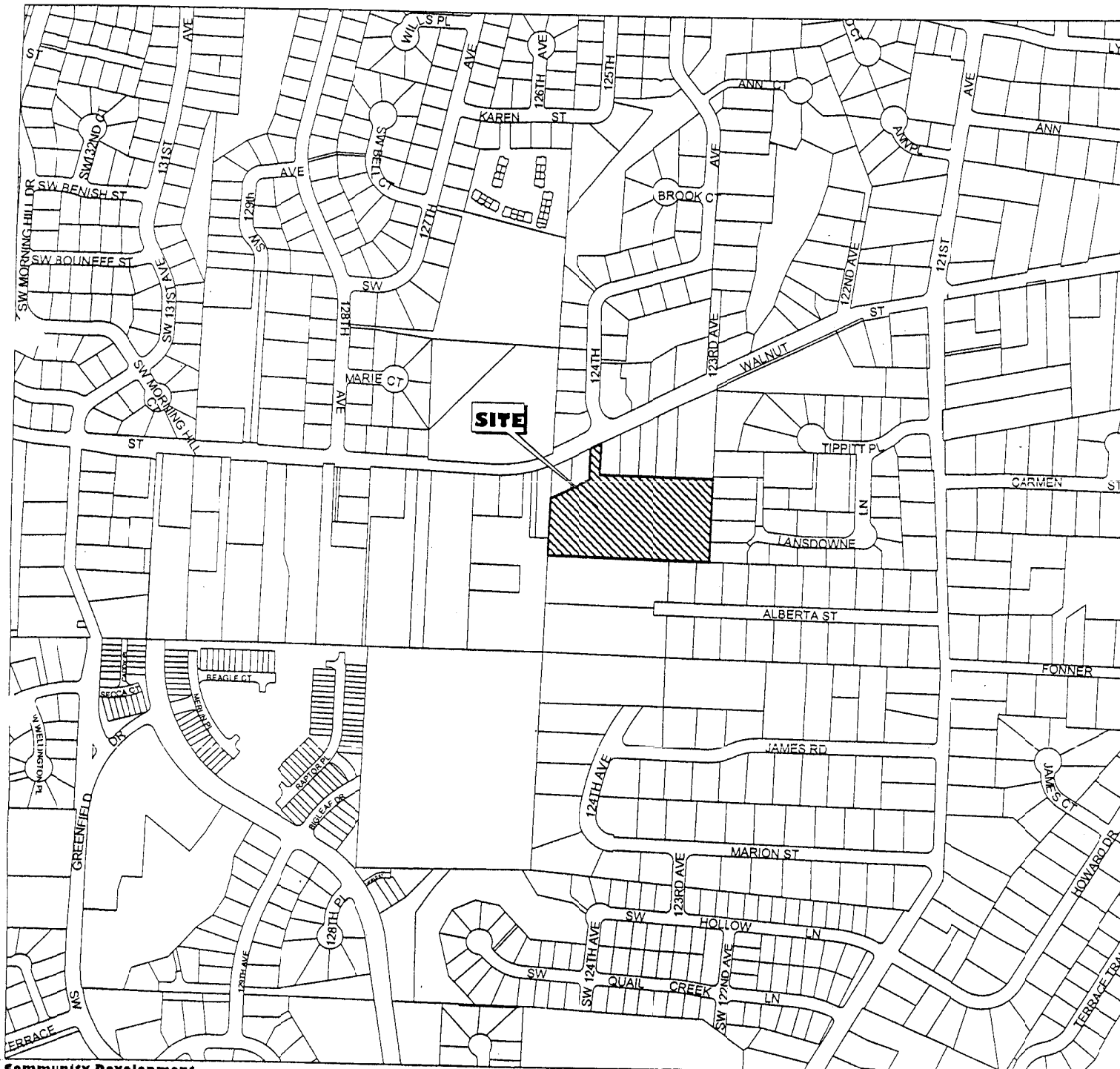
**IT IS FURTHER ORDERED THAT THE APPLICANT AND THE PARTIES
TO THESE PROCEEDINGS BE NOTIFIED OF THE ENTRY OF THIS ORDER.**

PASSED: This 11th day of June, 2001 by the Planning Commission of the City of Tigard, Oregon.



Nick Wilson, President
City of Tigard Planning Commission

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CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

VICINITY MAP

=====

SUB2001-00001
 PDR2001-00001
 ZON2001-00002
 SLR2001-00003
 VAR2001-00002

=====

**BLUE HERON PARK
 SUBDIVISION**

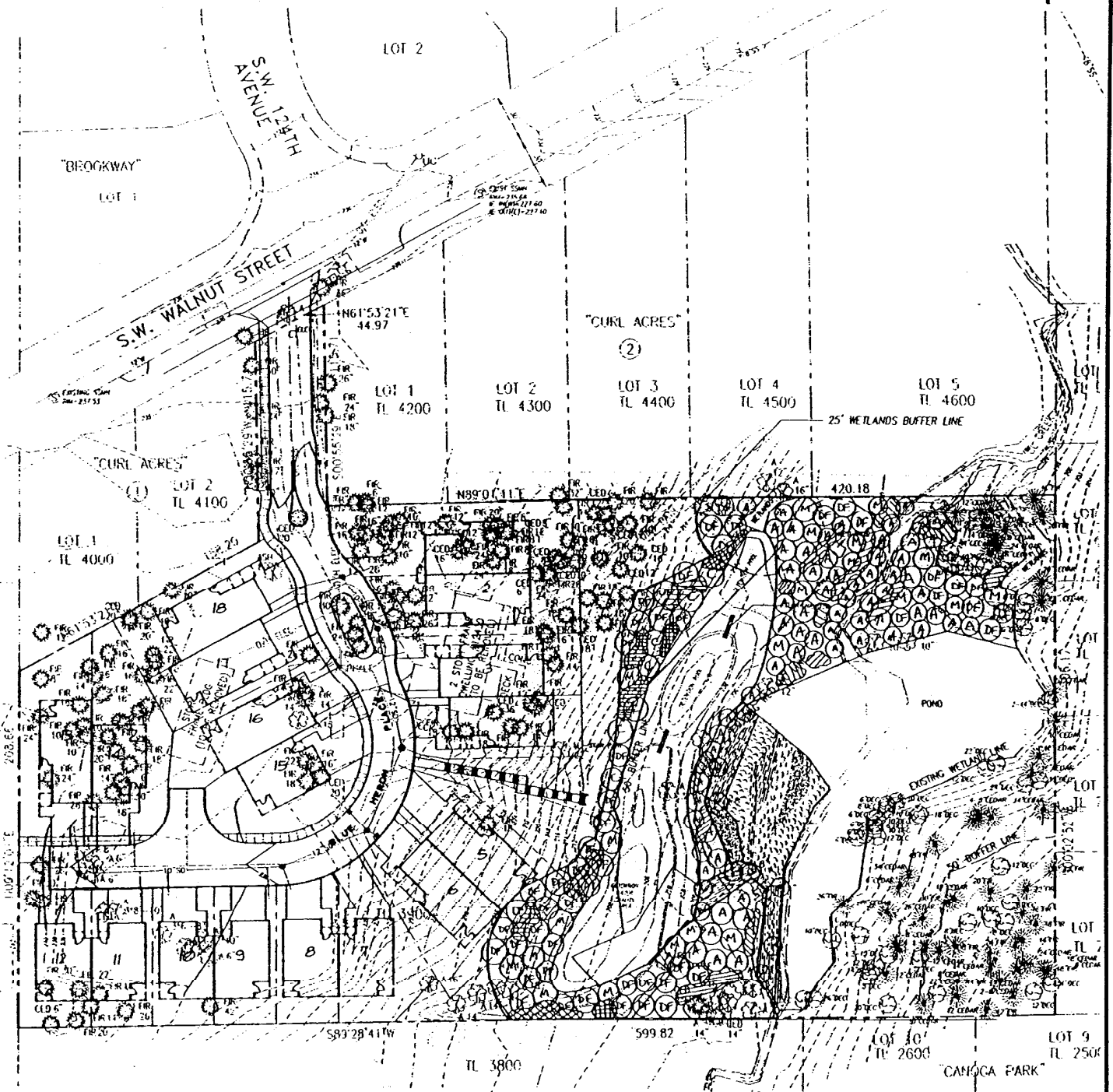


0 400 800 Feet
 1" = 501 feet



City of Tigard

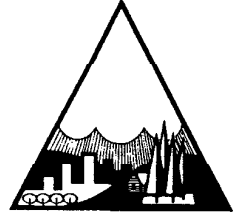
Information on this map is for general location only and
 should be verified with the Development Services Division
 13125 SW Hall Blvd
 Tigard, OR 97223
 (503) 639-4171
<http://www.ci.tigard.or.us>



CITY OF TIGARD ↑
SITE PLAN
(Map is not to scale) **N**

SUB2001-1/PDR2001-1/ZON2001-2/SLR2001-3/VAR2001-2
BLUE HERON PARK SUBDIVISION

MEMORANDUM



TO: Honorable Mayor & City Council

FROM: Cathy Wheatley, City Recorder *Cathy*

RE: Agenda Item No. 9 - Blue Heron Final Order

DATE: August 20, 2001

I am preparing a draft set of minutes for the portion of the August 14, 2001, City Council meeting for the Blue Heron Appeal Public Hearing. These draft minutes will be forwarded to the City Council in the August 24, 2001, newsletter.

I:\ADM\CATHY\COUNCIL\MEMO - BLUE HERON HEARING.DOC

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: A Zoning Ordinance Amendment (ZOA2000-00004) to allow existing buildings directly abutting SW Main Street to be exempt from having to add additional off-street parking for a change of use except for entertainment uses and construction of new buildings.

PREPARED BY: Beth St. Amand **DEPT HEAD OK** _____ **CITY MGR OK** _____

ISSUE BEFORE THE COUNCIL

Should the City Council adopt the attached ordinance to allow existing buildings directly abutting SW Main Street to be exempt from having to add additional off-street parking for a change of use and new construction to replace existing square footage? However, construction of new buildings and entertainment uses abutting SW Main Street will be required to meet the off-street parking standards according to Table 18.765.2 of the Tigard Community Development Code.

STAFF RECOMMENDATION

Adopt the attached ordinance to amend the Tigard Community Development Code.

INFORMATION SUMMARY

Through discussions with the Tigard Central Business District Association, the City of Tigard has been asked to come up with a solution to the limited parking of the downtown area. City staff drafted a Zone Ordinance Amendment to allow existing buildings abutting Main Street to be exempt from additional off-street parking for a change of use except for entertainment uses and construction of new buildings. The Tigard Central Business District Association reviewed the amendment and gave their approval.

At the November 6, 2000, Planning Commission meeting, the Commissioners held a public hearing on the requested Zone Ordinance Amendment. After the close of the hearing, the Commission deliberated and voted to recommend approval to the City Council with the parking amendment also applying to new buildings or existing buildings that undergo remodeling provided the original square footage of the buildings remain the same.

With the passage of Measure 7, staff delayed sending this forward to Council for the second public hearing until the City Attorneys advised us to proceed. Notice of the August 28th public hearing was mailed to the required property owners on August 1, 2001.

OTHER ALTERNATIVES CONSIDERED

Not applicable.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Community Character and Quality of Life, Downtown #1 – Provide opportunities to work proactively with Central Business District (CBD) businesses and property owners and citizens of Tigard to set the course for the future of the central downtown area.

ATTACHMENT LIST

1. Proposed Ordinance
2. Exhibit A – Proposed Revisions to Table 18.765.2.
3. Exhibit B – Map of Affected Properties
4. Exhibit C – Planning Commission Meeting Minutes, Nov. 6, 2000
5. Exhibit D – Staff Report to the Planning Commission

FISCAL NOTES

No budgetary impact.

CITY OF TIGARD, OREGON

ORDINANCE NO. 01-_____

A ZONE ORDINANCE AMENDMENT (ZOA2000-00004), AMENDING CHAPTER 18.765 OF THE TIGARD COMMUNITY DEVELOPMENT CODE.

WHEREAS, the Main Street area is envisioned as a “focal point” for the community in “Tigard Beyond Tomorrow”;

WHEREAS, current buildings abutting SW Main Street are historical in character and possess a distinctive shape and size that help define this area;

WHEREAS, buildings abutting SW Main Street are exempt from the off-street parking standards for a change of use, which will help maintain these buildings’ viability for use, thereby maintaining the area’s character; and

WHEREAS, construction of new buildings abutting Main Street and entertainment uses will be required to meet the off-street parking standards according to Table 18.765.2 (Minimum and Maximum Required Off-Street Vehicle and Bicycle Parking Requirements); and

WHEREAS, the Planning Commission opened a Public Hearing on the request on November 6, 2000, and indicated they were supportive of the proposed amendment with the addition that “new construction to replace existing square footage is also not required to add additional off-street parking” and directed staff to prepare language and an Ordinance for Council review and approval; and

WHEREAS, the City Council will determine that the proposed language adequately addresses concerns regarding the exemption of off-street parking for a change of use in existing buildings abutting SW Main Street, however, requiring new buildings and entertainment uses to meet current off-street parking standards.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Table 18.765.2 of the Tigard Development Code is hereby amended to add the following language: (**see Exhibit A**)

^[5] Existing buildings directly abutting Main Street are not required to add additional off-street parking for a change of use except for entertainment uses. New buildings or existing buildings that undergo remodeling provided the original square footage of the buildings remain the same also are not required to add additional off-street parking. Entertainment uses and construction of new buildings abutting Main Street require parking according to the standards of Table 18.765.2.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2001.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2001.

James E. Griffith, Mayor

Approved as to form:

City Attorney

Date

I:\lrpln\beth\parking amendment\zoa2000-00004.Ord.doc

ADDITIONS: Indicated in **highlight & underline**
 DELETIONS: NONE

Table 18.765.2 Minimum and Maximum Required Off-street Vehicle and Bicycle Parking Requirements (Cont.)

	MINIMUM	ZONE A	MAXIMUM ¹ ZONE B	BICYCLE ²
Postal Services	2.5/1,000	3.0/1,000	4.5/1,000	0.3/1,000
Public Support Facilities	none	none	none	none
Religious Institutions	1.0/2 seats in main assembly area (M)	1.0/1.7 seats in main assembly area (M)	1.0/1.3 seats in main assembly area (M)	1.0/20 seats in main assembly area
Schools	Preschool: 5.0+1/classroom Elementary/JR: 2.0/classroom SR: 1.0/5 students/staff (M)	Preschool: 7.0+1.0 classroom Elementary/JR: 2.5/classroom SR: 1.0/3.3 students/staff (M)	Preschool: 10.0+1/classroom Elementary/JR: 3.5/classroom SR: 1.0/3.3 students/staff (M)	Preschool: 1.0/classroom Elementary/JR: 6.0/classroom SR: 6.0/classroom
Social/Fraternal Clubs/Lodges	10.0/1,000 main assembly area	12.0/1,000 main assembly area	14.0/1,000 main assembly area	2.0/1,000 main assembly area
COMMERCIAL				
Commercial Lodging	1.0/room	1.2/room	1.4/room	1.0/10 rooms
Eating and Drinking Establishments	Fast food: 9.9/1,000 (M) other: 15.3/1,000 (M)	12.4/1,000 (M) 19.1/1,000 (M)	14.9/1,000 (M) 23.0/1,000 (M)	All: 1.0/1,000
Entertainment - Oriented				
Major Event Entertainment	1.0/3 seats or 1.0/6' bench	1.0/2.5 seats or 1.0/5' bench	1.0/2 seats or 1.0/4' bench	1.0/10 seats or 40' bench
Outdoor Entertainment	4.0/1,000 (M)	4.5/1,000	5.0/1,000	0.4/1,000
Indoor Entertainment	4.3/1,000 (M) Theater: 1.0/3 seats (M)	5.4/1,000 (M) Theater: 1.0/2.5 seats (M)	6.5/1,000 (M) Theater 1.0/2.0 seats (M)	0.5/1,000 1.0/10 seats
Adult Entertainment	2.5/1,000 1.0/3 seats (M)	3.5/1,000 1.0/1.25 seats (M)	4.5/1,000 1.0/2.0 seats (M)	0.5/1,000 1.0/20 seats
General Retail				
Sales - Oriented	3.7/1,000 (M)	5.1/1,000 (M)	6.2/1,000 (M)	0.3/1,000
Personal Services	2.5/1,000 Bank with drive in: 4.3/1,000(M)	3.0/1,000 5.4/1,000 (M)	4.5/1,000 6.5/1,000 (M)	1.0/1,000 1.0/1,000
Repair - Oriented	3.3/1,000	4.0/1,000	4.5/1,000	0.3/1,000
Bulk Sales	1.0/1,000 but no less than 10.0	1.3/1,000	2.0/1,000	0.3/1,000
Outdoor Sales	1.0/1,000 sales area	1.3/1,000 sales area	2.0/1,000 sales area	0.1/1,000 sales area
Animal - Related	3.3/1,000	4.0/1,000	4.5/1,000	0.3/1,000

^[5] Existing buildings directly abutting Main Street are not required to add additional off-street parking for a change of use except for entertainment uses. Entertainment uses and construction of new buildings abutting Main Street require parking according to the standards of Table 18.765.2. New buildings or existing buildings that undergo remodeling provided the original square footage of the buildings remain the same also are not required to add additional off-street parking.



Properties that directly abut SW Main Street
are indicated in hash marks

CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

VICINITY MAP

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ZOA2000-00004

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DOWNTOWN PARKING CODE AMENDMENT



0 200 400 600 Feet

1"= 437 feet



City of Tigar

Information on this map is for general location only and
should be verified with the Development Services Division.

13125 SW Hall Blvd

Tigar, OR 97223

(503) 639-4171

<http://www.ci.tigar.or.us>

4. APPROVE MEETING MINUTES

Commissioner Padgett moved and Commissioner Anderson seconded the motion to approve the October 2, 2000, meeting minutes as submitted. A voice vote was taken and the motion passed by a vote of 5-0. Commissioner Incalcaterra arrived after the vote was taken.

5. PUBLIC HEARING

5.1 ZONE ORDINANCE AMENDMENT (ZOA) 2000-00004 DOWNTOWN PARKING CODE AMENDMENT

The City of Tigard is requesting approval of a Zone Ordinance Amendment to allow existing buildings directly abutting Main Street to be exempt from having to add additional off-street parking for a change of use. However, construction of new buildings abutting Main Street will be required to meet the off-street parking standards according to Table 18.765.2 (Minimum and Maximum Required Off-Street Vehicle and Bicycle Parking Requirements) in the Tigard Community Development Code. **LOCATION:** All properties abutting SW Main Street. **ZONE:** CBD Central Business District. The CBD zoning district is designed to provide a concentrated central business district, centered on the City's historic downtown, including a mix of civic retail and office uses. Single-family attached housing, at a maximum density of 12 units/net acre, equivalent to the R-40 zoning district, are permitted outright. A wide range of uses, including but not limited to adult entertainment, utilities, facilities with drive-up windows, medical centers, major event entertainment and gasoline stations, are permitted conditionally. **APPLICABLE REVIEW CRITERIA:** Statewide Planning Goals 1, 2, 5 and 9; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2, 2.1.3 and 5.3; and Community Development Code Chapters 18.380, 18.390 and 18.765.

STAFF REPORT

Matt Scheidegger presented the staff report on behalf of the City. He explained that the amendment would allow all existing buildings on Main Street to be exempt from having to meet the off-street parking standards for a change of use. New construction, change of use to entertainment purposes, or the addition of new square footage to an existing building would have to meet the parking standards. Dick Bewersdorff noted that these standards are common in other cities. The purpose of this amendment is to maintain and improve the viability of the historic downtown area.

Commissioner Incalcaterra asked if this exemption would apply even if a new business in an existing building attracts more cars than the previous business. Mr. Scheidegger said that is correct unless the new business is for entertainment use.

Jim Hendryx presented a brief background for this amendment. The City has made at least two attempts for revitalizing the downtown area over the last 15 years, both of which failed. About two years ago the Tigard Central Business District Association was formed. An action plan was adopted and a resource team was brought in to develop a vision plan for the improvement and success of the downtown area. The association recently hired a part time manager. One of the key aspects for the next 18 months is to look at funding sources. The association has contracted with the Oregon Downtown Development Association to look at a funding mechanism to maintain the association, to continue to finance the part time manager, and to work on promotional activities and other issues. Since there is a lack of developable land in the downtown area, this amendment will encourage new businesses to occupy existing buildings.

Commissioner Anderson asked about shared parking arrangements for businesses that operate during different hours. Mr. Hendryx said that is allowed by the code. A parking management plan will be developed later to address issues such as this.

Commissioner Topp asked if a new building would be exempt if it replaces an old building of the same square footage. It was clarified that all new buildings will have to meet parking requirements.

PUBLIC TESTIMONY - IN FAVOR

Mike Marr, 12420 SW Main Street, Tigard, Oregon, stated that parking is very important for businesses in the downtown area. His building covers the entire property and there is no spare land for parking. He feels that the existing code is too prohibitive. The biggest problem is during the lunch hour. He is supportive of this amendment and the Central Business District Association also supports the amendment.

PUBLIC TESTIMONY - IN OPPOSITION

Vivian Davis, 10875 SW 89th, Tigard, Oregon, owns a building on Main Street. Downtown parking is a serious problem. Four parking spaces in front of her building were taken for use by Greyhound, which parks in that spot for 12 minutes, 12 times a day. This has caused numerous problems, including the impairment of visibility when exiting the parking lot. For more than a year the City has promised to move Greyhound, but has not done so. Ms. Davis was advised that this issue has been addressed by the City Engineer and the bus stop was moved across the street to the south side about a month ago. She was unaware that this had occurred and is unsure if she is opposed to the amendment, she only knows that parking downtown is a serious problem.

PUBLIC HEARING CLOSED

Commissioner Topp said he is troubled by the rebuilding part of the amendment. New development is required to comply with the standards, but there will not be

very much new development. Development in the area will mainly consist of redevelopment of older existing buildings. Requiring compliance for a new building that replaces an older run-down building will be a disincentive to rebuild if additional parking is required. He agrees that if an existing building adds square footage it should also add more parking. However, if a new building retains the existing square footage, then it should be exempt from coming up to current parking standards.

President Wilson pointed out that there is already a serious disincentive to rebuild because currently an existing building must comply if the use changes. This ordinance gives more flexibility in that regard.

Commissioner Padgett noted that an important distinction is that the Central Business District is a specially designated area of the City, and the City has recognized that the purpose and intent of this area is different from other general commercial areas. Because of the unique characteristics and designation of the area, it is important to clarify that this amendment only applies to the Central Business District and the same theory does not apply to other commercial areas.

Matt Scheidegger reiterated that this amendment only applies to property abutting Main Street. A brief discussion followed regarding inclusion of these concerns in the recommendation for approval.

Commissioner Topp moved to recommend approval to City Council of the Downtown Parking Code Amendment, Zone Ordinance Amendment (ZOA) 2000-00004, as evidenced by Table 18.765.2 revised on 11/6/00 to include an amendment to footnote #5 that existing buildings directly abutting Main Street are not required to add additional off-street parking for a change of use or for replacement of the existing square footage except for entertainment uses. Commissioner Mores seconded the motion. A voice vote was taken and the motion passed unanimously.

Commissioner Padgett left at 8:10 p.m.

**STAFF REPORT TO THE
PLANNING COMMISSION
FOR THE CITY OF TIGARD, OREGON**



SECTION I. APPLICATION SUMMARY

CASE NAME: **DOWNTOWN PARKING CODE AMENDMENT**
CASE NO.: **Zone Ordinance Amendment (ZOA) ZOA2000-00004**

PROPOSAL: The Tigard Central Business District Association has requested that the City of Tigard approve a Zone Ordinance Amendment to allow existing buildings directly abutting SW Main Street to be exempt from having to add additional off-street parking for a change of use. However, construction of new buildings and entertainment uses abutting Main Street will be required to meet the off-street parking standards according to Table 18.765.2 (Minimum and Maximum Required Off-Street Vehicle and Bicycle Parking Requirements) in the Tigard Community Development Code.

The proposal will amend The Tigard Community Development Code in Chapter 18.765 (Table 18.765.2).

APPLICANT: City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

OWNER: Same

ZONE: CBD: Central Business District. The CBD zoning district is designed to provide a concentrated central business district centered on the City's historic downtown, including a mix of civic, retail and office uses. Single-family attached housing, at a maximum density of 12 units/net acre, equivalent of the R-12 zoning district, and multi-family housing at a minimum density of 32 units/acre, equivalent to the R-40 zoning district, are permitted outright. A wide range of uses, including but not limited to adult entertainment, utilities, facilities with drive-up windows, medical centers, major event entertainment and gasoline stations, are permitted conditionally.

LOCATION: All properties abutting SW Main Street.

**APPLICABLE
REVIEW
CRITERIA:**

Statewide Planning Goals 1, 2, 5 and 9; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2, 2.1.3 and 5.3; and Community Development Code Chapters 18.380, 18.390 and 18.765.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a recommendation to the City Council to **APPROVE** the requested Zone Ordinance Amendment.

SECTION III. BACKGROUND INFORMATION

Through discussions with the Community Development Director, the Tigard Central Business District Association expressed concerns for parking relative to changes of use. The Association is concerned that strict parking standards and lack of developable land has hindered new business from the downtown area. Allowing permitted uses to occupy pre-existing buildings without having to meet the current parking ratios will encourage new businesses in the future. However, new construction will need to meet current parking standards.

SECTION IV. SUMMARY OF APPLICABLE CRITERIA

Chapter 18.380 states that legislative text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

Chapter 18.390.060G states that the recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

- ♦ **The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;**

Notice was provided to DLCD 45 days prior to the first scheduled public hearing as required. In addition, the Tigard Development Code and Comprehensive Plan have been acknowledged by DLCD. The following are the applicable Statewide Planning Goals that are applicable to this proposal:

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents. This goal has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390. Notice was mailed to all property owners of property abutting SW Main and notice was published in the Tigard Times Newspaper prior to the hearing. In addition, this amendment has been mentioned at CIT meetings and after the hearing before the Planning Commission, additional notice will be mailed and published prior to the City Council Hearing. Two Public Hearings are held (one before the Planning Commission and the second before the City Council) in which public input is welcome.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework.

This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process and policies to review changes to the Development Code consistent with Goal 2. This goal is met because the City applied all relevant Statewide Planning Goals, City Comprehensive Plan Policies, and Community Development Code requirements in the review of the proposal.

Statewide Planning Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources: This goal is to protect natural resources and conserve scenic and historic areas and open spaces.

This goal outlines government responsibilities to adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations.

The City has met this goal by allowing existing buildings on Main Street to be exempt from having to add additional off-street parking for a change of use. Allowing this exemption will help maintain the present state of the historic “downtown” area without hindering potential uses otherwise prohibited by off-street parking standards due to lack of developable space.

♦ **Any applicable Comprehensive Plan Policies; and**

The proposal is consistent with the City’s acknowledged Comprehensive Plan and Development Code based on the following:

Comprehensive Plan Policy 1.1.1.a –General Policies:

This policy states that the City shall ensure that this Comprehensive Plan and all future legislative changes are consistent with the Statewide Planning Goals adopted by the Land Conservation and Development Commission, and the regional plan adopted by the Metropolitan Service District.

This Policy is satisfied as the proposed changes are consistent with Statewide Planning Goals as indicated above and the change will help to keep the Development Code current with local needs.

Comprehensive Plan Policy 2.1.1 - Citizen Involvement:

This policy states that the City shall maintain an ongoing citizen involvement program and shall assure that citizens will be provided an opportunity to be involved in all phases of the planning process.

This Policy is satisfied, as the Tigard Central Business District Association has reviewed the proposal and will have a chance to address it at the Public Hearing.

Comprehensive Plan Policy 2.1.2 - Citizen Involvement:

This policy states that the opportunities for citizen involvement provided by the City shall be appropriate to the scale of the planning effort and shall involve a broad cross-section of the community.

This Policy is satisfied as the proposal was created entirely by the Tigard Central Business District Association under the direction of the City. Furthermore, all property owners that abut SW Main Street have received notice of the public hearing and notice was published in the Tigard Times and posted in the vicinity.

Comprehensive Plan Policy 2.1.3 - Citizen Involvement:

This policy states that the City shall ensure that information on land use planning issues is available in an understandable form for all interested parties.

This Policy is satisfied as the staff report was made available more than seven (7) days prior to the public hearing, including the proposed Code amendments.

Comprehensive Plan Policy 5.3 – Economy:

This policy states that the City shall improve and enhance the portions of the Central Business District as the focal point for commercial, high density residential, business, civic and professional activity creating a diversified and economically viable core area.

This policy is satisfied as the change allows diverse uses to enter the downtown area without having to meet current off-street parking standards thus not interrupting the fragile balance

between economic sustainability and the environmentally sensitive areas of the downtown core area.

♦ **Any applicable provisions of the City's implementing ordinances.**

The applicable City Development Code standards are as follows: Chapter 18.380 which regulates amendments; Section 18.380.020 that outlines the process for reviewing Development Code Text Amendments; and Section 18.390.060.G that establishes procedures for legislative code changes and are satisfied according to the above findings and Section 18.765 (Table 18.765.2) where the amendment takes place.

A number of on-street parking stalls are available to downtown patrons and employees as well as City lots (i.e. Chamber of Commerce lot). Public transit facilities are in close proximity in order to serve pedestrian traffic.

A concern that was brought to Staff's attention was the Chamber of Commerce building and their rental agreement with the City on the City parking lot constructed next to the building. The Amendment would not change the Commerce building's agreement. The amendment is aimed only at new uses in existing buildings on Main Street. It does not say that existing buildings would no longer have to provide the parking that they currently provide, just that they would not be required to provide additional parking if the use of the building changed, except for entertainment uses such as theaters. Current off-street parking regulations when applied to projects outside of the downtown area meet the needs of residents, customers and employees. However, they may hinder the potential revitalization of the Main Street area. In the future the Downtown Association and the City will need to take a look at additional parking, or placing time limitations on on-street parking spaces and potentially look into enforcement. The Council must decide if they want to encourage downtown revitalization with the knowledge that they may at a later date have to support additional parking in the downtown area. If they chose not to, the downtown area will continue to face limitations in uses that can locate in this area. Staff has no evidence that, given the existing on-street parking and transit service availability that the parking demands would increase significantly in this area with the adoption of this zone ordinance amendment.

This amendment encourages building owners to remodel instead of redevelop, thus embracing the historic undertone of the downtown area without sacrificing valuable space for unsightly parking lots. In order to construct a new building, current parking standards would apply. If a building owner wants to build an addition to an existing building, the owner would be responsible to provide additional parking for the new square footage. This amendment may have an effect of helping downtown businesses grow and prosper. This may, in turn, lead to the potential for redevelopment as the area thrives.

Based on the analysis above, staff finds that the attached code amendment clarifies responsibilities and liabilities. It is recommended that the Planning Commission forward the proposed code amendment to the City Council with a recommendation for approval.

SECTION V. ADDITIONAL CITY STAFF AND OUTSIDE AGENCY COMMENTS

City of Tigard Engineering Department has reviewed the proposal and has no objections

to it.

City of Tigard Long Range Planning Division has reviewed the proposal and has no objections to it.

Oregon Department of Land Conservation & Development has reviewed the proposal and has no objections to it.

City of Tigard Operations Department has reviewed the proposal and has no objections to it.

City of Tigard Police Department has reviewed the proposal and has no objections to it.

PREPARED BY: Mathew Scheidegger
Assistant Planner

October 27, 2000
DATE

APPROVED BY: Richard Bewersdorff
Planning Manager

October 27, 2000
DATE

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AGENDA ITEM # 11
FOR AGENDA OF 08/28/01

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE TMC - Permit Issuance Conditions (oversize loads)

PREPARED BY: Ronald D. Goodpaster DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should TMC 10.50 be amended to read “no move shall begin before 9:00 AM on weekdays and must be completed by 3:00 PM.”

STAFF RECOMMENDATION

Staff recommends that the change to the ordinance be approved.

INFORMATION SUMMARY

Currently the ordinance states that no move shall take place during the periods of 7:00 AM through 9:00 AM without approval of the Chief of Police. The recommendation is that the language be changed to specifically state that no move shall begin before 9:00 AM on weekdays and must be completed by 3:00 PM. The part missing primarily is the completion time of 3:00 PM. This is just before the busy rush hour traffic starts. This would be extremely beneficial to us and the general motoring public regarding navigating the streets during extremely congested and busy times.

OTHER ALTERNATIVES CONSIDERED

No other alternatives considered.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

The Tigard Beyond Tomorrow Public Safety strategy would cover this area.

ATTACHMENTS

Ordinance amending Section TMC 10.50.080 (6)
Current TMC 10.50

FISCAL NOTES

There are no additional costs attached to this change.

CITY OF TIGARD, OREGON

ORDINANCE NO. 01-

AN ORDINANCE AMENDING SECTION 10.50.080 OF THE TIGARD MUNICIPAL CODE CHANGING SUB SECTION 10.50.080 (6) PROHIBITING MOVEMENT OF OVERSIZE LOADS ON CITY STREETS BEFORE 9:00 AM AND AFTER 3:00 PM.

WHEREAS, Section 10.50.080 (6) the Tigard Municipal Code currently states "no move shall take place during the periods of seven a.m. through nine a.m., without approval of the chief of police"; and

WHEREAS, movement of oversize loads after three p.m. causes severe traffic congestion at rush hour times on weekdays; and

WHEREAS, public safety vehicles cannot move effectively through severely congested streets; and

WHEREAS, restricting movement of oversize loads will prevent this cause of traffic congestion.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Section 10.50.080 (6) is amended to read as follows: No movement shall begin before nine a.m. on weekdays and must be completed by three p.m.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2001.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2001.

James E. Griffith, Mayor

Approved as to form:

City Attorney

Date

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ORDINANCE No. 01-__

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Chapter 10.50 MOVING OF OVERSIZE LOADS

Sections:

- 10.50.010 Title.
- 10.50.020 Definitions.
- 10.50.030 Permit required.
- 10.50.040 Permit application--Fee.
- 10.50.050 Permit for moving or relocating a building onto a lot.
- 10.50.060 Protection of public and private property and utilities.
- 10.50.070 Certificate of insurance.
- 10.50.080 Permit issuance conditions.
- 10.50.090 Permit contents.
- 10.50.100 Permit revocation.
- 10.50.110 Liability.
- 10.50.120 Protection of streets and property.
- 10.50.130 Project to continue uninterrupted.
- 10.50.140 Cleanup.
- 10.50.150 State highway/county road use.
- 10.50.160 Moving oversize loads on same property.
- 10.50.170 Violation--Penalty.

10.50.010 Title.

This chapter shall be known as the "moving of oversize loads ordinance" and may also be referred to herein as "this chapter." (Ord. 90-18 §1(part), 1990)

10.50.020 Definitions.

For the purposes of this chapter, the following mean:

(1) Building. "Building" means any structure used or intended for sheltering any use or occupancy.

(2) Building Official. "Building official"

means the designee or designees appointed by the director of community development who is responsible for the building inspections and enforcement of the building code.

(3) City Engineer. "City engineer" means the city engineer or the city engineer's designee.

(4) Street. "Street" means any highway, road, street or alley as defined in ORS 487.005(1) and (8).

(5) Structure. "Structure" means that which is built or constructed, an edifice or building of any kind, or piece of work artificially built up or composed of parts joined together in some definite manner.

(6) Chief of Police. "Chief of police" means the designee appointed by the city administrator who is responsible for the administration of the police department and may also be referred to herein as "Chief."

(7) Oversize Load. "Oversize load" means any building, structure or commodity which is to be moved along any city street upon a flatbed truck, trailer, dollies or similar vehicles, which has a loaded width exceeding eight feet and/or a loaded length exceeding fifty feet total, and/or a loaded height exceeding fourteen feet pursuant to ORS 818.080. (Ord. 90-18 §1(part), 1990)

10.50.030 Permit required.

(a) No person shall move an oversize load across or along a street without first applying for and obtaining a permit under this chapter.

(b) No person shall move an oversize load across or along a street in violation of a provision of this chapter or of the provisions of the permit issued under this chapter. (Ord. 90-18 §1(part), 1990)

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10.50.040 Permit application--Fee.

(a) Application for a permit to move an oversize load shall be made to the building official on forms provided by the building official and shall include the following information:

(1) The name and address of a person who owns the oversize load;

(2) The name and address of a person engaged to move the oversize load;

(3) The location from which the oversize load is proposed to be moved;

(4) The proposed new site of the oversize load and its zoning classification (if in the city);

(5) The proposed route for moving the oversize load;

(6) The dimensions, type of construction and approximate age of the oversize load;

(7) The use or purpose for which the oversize load was designed;

(8) The use or purpose to be made of the oversize load at its new location (if in the city);

(9) The proposed moving date and hours of moving;

(10) Any additional information the building official considers necessary for a fair determination of whether the permit should be issued.

(b) In situations where the city's design review standards apply, the applicant shall also make application and submit all necessary

information for design review approval.

(c) An application shall be signed by the owner of the oversize load to be moved or by the person engaged to move the building.

(d) A fee of ten dollars shall be paid prior to the issuance of a permit. Should it be necessary for the city to provide any assistance in the moving of an oversize load, the applicant shall pay an amount equal to the cost of labor and/or materials, or any other cost incurred by the city. These fees, pursuant to this section may be amended by the city council by resolution. (Ord. 90-18 §1(part), 1990)

10.50.050 Permit for moving or relocating a building onto a lot.

The movement or relocation of any building or structure (which would otherwise require the issuance of a building permit), within or into the city, to be placed on a lot within the city, shall in addition to the provisions of this chapter, comply with Chapter 14.20. (Ord. 90-18 §1(part), 1990)

10.50.060 Protection of public and private property and utilities.

(a) The issuance of an oversize load permit is not an approval to remove, alter, interfere or endanger any public or private property, or utility without first having obtained in writing, the permission of the property owner(s), utility, or public entity to do so.

(b) The applicant shall have made arrangements to the satisfaction of the owner(s), utility or public entity for protecting the installations or property, paying for whatever damage the moving causes them, and for reimbursing the owner(s), utility or public entity for any costs of removal and reinstallation of the property that the move necessitates. (Ord. 90-18 §1(part), 1990)

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10.50.070 Certificate of insurance.

A permit shall not be issued until the applicant furnishes proof of liability insurance with a surety company authorized to do business in this state, for the purposes of moving oversize loads, in an amount and form approved by the building official. (Ord. 90-18 §1(part), 1990)

10.50.080 Permit issuance conditions.

The building official shall issue the permit subject to any necessary conditions if:

(1) The application complies with the requirements of this chapter;

(2) The moving can be accomplished without damage to property, or in case of damage to the property, it is consented to by the owner of the property or is to be paid for to the owner's satisfaction;

(3) The building at its new site, if within the city, will conform to the requirements of the community development code;

(4) All requirements of the building code ordinance (Chapter 14.04) have been complied with;

(5) The applicant shall be responsible for notifying the police department, fire department, and all other affected agencies not less than that required by the agency, but not less than forty-eight hours prior to commencement of the move;

(6) No move shall take place during the periods of seven a.m. through nine a.m., without approval of the chief of police. (Ord. 90-18 §1(part), 1990)

10.50.090 Permit contents.

The permit shall specify:

(1) The route for moving the oversize load;

(2) The dates and times within which the moving is to be completed;

(3) Whatever additional conditions the building official considers necessary to satisfy ordinance requirements, to minimize the obstruction of traffic to protect property, and to protect the public safety and welfare. (Ord. 90-18 §1(part), 1990).

10.50.100 Permit revocation.

The building official may refuse to issue a permit or may revoke a permit issued under this chapter if:

(1) The permittee violates or cannot meet a requirement of the permit or a section of this chapter;

(2) Grounds, such as a misstatement of fact exist for revocation, suspension or refusal to issue the permit. (Ord. 90-18 §1(part), 1990).

10.50.110 Liability.

The permit shall not constitute an authorization for damaging property. The permit shall not constitute a defense against any liability the permittee incurs for personal injury or property damage caused by the moving. (Ord. 90-18 §1(part), 1990)

10.50.120 Protection of streets and property.

Equipment used to move oversize loads along or across the public streets of the city shall be equipped with pneumatic tires, which shall be the only part of the equipment to come in to contact with the surfaces of the streets, except planking as required by the city engineer. The city engineer may require the permittee to proceed

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on planking of specified dimensions when the city engineer considers the planking necessary to prevent damage to a public street or other property. (Ord. 90-18 §1(part), 1990)

10.50.130 Project to continue uninterrupted.

Once an oversize load has been moved onto a public street under a permit authorized by this chapter, the person moving the oversize load shall continue with the moving project without interruption until it is completed, except as the permit for the moving of the oversize load specifically allows to the contrary. (Ord. 90-18 §1(part), 1990)

10.50.140 Cleanup.

A person moving an oversize load under a permit authorized by this chapter shall promptly remove from the public streets and private property all litter produced by the moving. (Ord. 90-18 §1(part), 1990)

10.50.150 State highway/county road use.

The building official may waive any of the requirements of this chapter regarding oversize loads to be moved through the city upon a county road or state highway from and to points outside the city limits if:

(1) Movement will be made pursuant to a permit issued by the appropriate state agency;

(2) Notice of the proposed movement and a copy of the permit is submitted to the building official before the movement; and

(3) The building official is satisfied that adequate precautions have been taken to protect the public safety and welfare. (Ord. 90-18 §1(part), 1990)

10.50.160 Moving oversize loads on same property.

Section 10.50.030 shall not apply when an oversize load is moved on the same or private property, or along a private street not controlled or maintained by the city, except that Section 10.50.050 shall apply in all cases. (Ord. 90-18 §1(part), 1990)

10.50.170 Violation--Penalty.

Violation of this chapter (except for Section 10.50.050) shall constitute a Class I infraction and shall be processed in accordance with the civil infractions ordinance, codified in Chapter 1.16 of this code. (Ord. 90-18 §1(part), 1990)8 ■

AGENDA ITEM # 12
FOR AGENDA OF August 28, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE An ordinance amending sections 2.36.030, 2.36.040, 7.100.10 and 7.100.40 of the Tigard Municipal Code.

PREPARED BY: Margaret Barnes DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should the Council amend Tigard Municipal Code (TMC) sections 2.36.030, 2.36.040, 7.100.10 and 7.100.40 to clarify procedures for Library Board member appointment and terms, and the procedure for the exclusion from the Tigard Public Library?

STAFF RECOMMENDATION

Amend TMC 2.36.030, 2.36.040, 7.100.10 and 7.100.40.

INFORMATION SUMMARY

TMC 2.36.030 contains procedures to be followed by the City when it wishes to appoint Library Board members, the terms of the members, the frequency of meetings, the selection of officers for the Board and the record keeping of board meeting. TMC 2.36.040 outlines the responsibilities of the Library Board.

The proposed amendment clarifies the operation of the Library Board and removes outdated language.

TMC 7.100.10 and 7.100.40 contains the procedure to follow to exclude a person from the Tigard Public Library.

The proposed amendment clarifies and updates the procedure to follow to exclude a person from the Tigard Public Library and the process to appeal the exclusion.

OTHER ALTERNATIVES CONSIDERED

Retain TMC 2.36.030, 2.36.040, 7.100.10 and 7.100.40 as written.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

Ordinance amending sections TMC 2.36.030, 2.36.040, 7.100.10 and 7.100.40
Current form of 2.36.030, 2.36.040, 7.100.10 and 7.100.40

FISCAL NOTES

There is no cost for this action.

CITY OF TIGARD, OREGON

ORDINANCE NO. 01-

AN ORDINANCE AMENDING CHAPTERS 2.36.030, 2.36.040, 7.100.10, AND 7.100.40, OF THE TIGARD MUNICIPAL CODE TO CLARIFY PROCEDURES FOR LIBRARY BOARD MEMBER APPOINTMENT AND TERMS, AND THE PROCEDURE FOR EXCLUSION FROM THE TIGARD PUBLIC LIBRARY.

WHEREAS, certain sections of the Tigard Municipal Code referring to the operation of the library board are outdated;

WHEREAS, current code provisions regarding exclusion from the Tigard Public Library are outdated and/or ambiguous, and are in need of revision;

WHEREAS, the public interest is served by clarifying the Tigard Municipal Code in these areas;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Section 2.36.030(b)(1) of the Tigard Municipal Code is amended to read as follows:

- (1) The term for each library board members shall be four (4) years. Terms commence on July 1 and end on June 30 four years after commencement. Existing members shall complete their terms, with two terms ending each June 30 of each year, except that only one term shall end on June 30, 2005 and each fourth year after that.

SECTION 2: Section 2.36.030(b)(2) of the Tigard Municipal Code is amended to read as follows;

- (2) The City Council shall appoint a person to a four year term on expiration of the term of any member of the library board. If a vacancy occurs for any reason other than expiration of a term, the City Council shall appoint a new member to serve for the duration of the unexpired term. The library board shall advise the City Council of any unfilled vacancies.

SECTION 3: Section 2.36.030(b)(3)of the Tigard Municipal Code is amended to read as follows:

- (3) No person may serve more than two (2) consecutive full terms on the library board. A person who is appointed to fill an unexpired term may serve two full consecutive terms immediately after the partial term. A person who has served two consecutive full terms may be appointed to the library board no sooner than one full calendar year after expiration of the last term the person served. For purposes of this section, a person who starts a full term is deemed to have served the full term, even if that person does not complete the term.

SECTION 4: Section 2.36.030(d) of the Tigard Municipal Code is amended to read as follows:

- (d) Officers. The library board shall, at its first meeting after July 1 of each year, elect a chairperson and a chairperson pro tem. The chairperson shall preside over meetings of the board, and the chairperson pro tem shall preside over meeting when the chairperson is absent. If both the chairperson and the chairperson pro tem are absent and a quorum is present, the members present shall by motion decide which of the members present shall preside over the meeting. Any member may preside over the motion to elect the person to preside over a single meeting. If the chairperson or chairperson pro tem should resign, the board shall elect a replacement at the first possible opportunity. All terms as chairperson or chairperson pro tem shall terminate on election of a successor.

SECTION 5: Section 2.36.030(e) shall be added to the Tigard Municipal Code and read as follows:

- (5) The Director of Library Services or designee shall serve as secretary to the library board and shall keep accurate records of all board meetings, which records shall be made available to the city manager, city council, and the public.

SECTION 6: Section 2.36.040(1) of the Tigard Municipal Code is amended to read as follows:

- (1) To represent the community and to communicate the library needs of the community to the City Council;

SECTION 7: The following sentence which appears at the end of Chapter 2.36 is deleted:

For statutory provisions enabling a city to establish, equip and maintain a free library, see ORS 357.410.

SECTION 8: Section 7.100.10.A of the Tigard Municipal Code is amended to read as follows:

- A. A person may be excluded from the Tigard Public Library for a period of up to ninety (90) days if the person commits one of the following acts:
 - 1. Theft of Tigard library materials or unlawful detention of Tigard library property;
 - 2. Acts that constitute any degree of any of the following crimes or violations under state law or this code, if committed within the Tigard Public Library or on Tigard Public Library grounds:
 - a. Assault;
 - b. Stalking;
 - c. Criminal Mischief;
 - d. Riot or disorderly conduct;
 - e. Menacing;
 - f. Recklessly endangering another;
 - g. Harassment;
 - h. Unlawfully applying graffiti;
 - i. Possession of a firearm or dangerous weapon in a public building;
 - j. Criminal trespass.

3. Refusing to leave the library when told to do so by library personnel or a police officer, or returning to the library on the same calendar day after being told to leave.

SECTION 9: Section 7.100.30 of the Tigard Municipal Code is amended to read as follows:

Within thirty (30) days of the actions listed in Section 7.100.10.A as a basis for exclusion or within thirty (30) days of the issuance of a second warning notice, the City may issue a written exclusion notice excluding the person from the Tigard Public Library. The notice shall specify that the person is to be excluded from the Tigard Public Library, the period of exclusion, and the time the exclusion is to commence. The notice shall provide information concerning the right to appeal the exclusion notice to the Civil Infractions Officer. The City employee issuing the notice shall ask the person to whom the exclusion notice is issued to sign an acknowledgment of the notice. If the person to whom the notice is issued refuses to sign, the person issuing the notice shall make a written record of the refusal. The exclusion notice may be issued at the time of arrest, if an arrest is made.

At the time of the occurrence of any conduct listed in Section 7.100.10.A, the City may issue a written warning notice. The notice shall describe the reason why the warning is issued and state that a second notice within ninety (90) days shall be grounds for exclusion or loss of library privileges. The warning notice shall contain information concerning the right to seek vacation of the order by submitting a written appeal to the Director of Library Services within five (5) days of the issuance of the warning notice. If the Director of Library Services receives a written appeal of a warning notice, the Director of Library Services may vacate the notice on a determination that the actions of the person to whom the notice was issued did not justify a warning notice.

SECTION 10: Section 7.100.40.A of the Tigard Municipal Code is amended to read as follows:

An appeal of the exclusion must be filed, in writing, within five (5) calendar days of the notices issuance with either the office of the Director of Library Services or the Chief of Police. The notice of appeal shall include the following:

1. the appellant's name, address and telephone number;
2. a concise statement as to why the issuance of the exclusion notice was in error; and,
3. a copy of the notice of exclusion appeal form.

SECTION 11: Section 7.100.40.C of the Tigard Municipal Code is amended to read as follows:

- C. At the hearing on appeal, the City shall have the burden to show by a preponderance of the evidence that the exclusion is justified by this chapter.

SECTION : This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2001.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2001.

James E. Griffith, Mayor

Approved as to form:

City Attorney

Date

TIGARD MUNICIPAL CODE

Chapter 2.36. PUBLIC LIBRARY*.

- 2.36.010 Title.
- 2.36.020 Established.
- 2.36.030 Board--Established--Term--
Appointment-Meetings
- 2.36.040 Board--Responsibilities.
- 2.36.050 Donated funds.
- 2.36.060 Fees.

2.36.010 Title.

The ordinance codified in this chapter shall be known and may be cited as "The City of Tigard Library Ordinance." (Ord. 72-30 §1, 1972).

2.36.020 Established.

A public library is established in and for the city of Tigard, Oregon. (Ord. 72-30 §2, 1972).

2.36.030 Board--Established--Term-- Appointment-Meetings --Officers.

(a) Established. There is established library board of seven members, six of whom shall be residents of the city and one of whom may reside within or outside the Tigard corporate limits.

(b) Term.

(1) The terms of the members presently serving on the library board shall terminate according to the following schedule:

Mary Slemmons, June 30, 1978;
Don Jacobs, June 30, 1978;
New Member, June 30, 1979;
New Member, June 30, 1979;
Yvonne Burgess, June 30, 1980;
Jeri Cundiff, June 30, 1980;
Betsy Chick, June 31, 1981.

(2) At the expiration of the term of any member of the library board, the

mayor, subject to confirmation by the city council, shall appoint a person to a four-year term. If a vacancy occurs for any reason other than expiration of a term, the mayor, subject to confirmation by the city council, shall appoint a new member to serve for the duration of the unexpired term.

(3) No person may serve more than two full consecutive terms on the library board, notwithstanding prior appointment to an unexpired term. After a one-year interval, a former member who had served two terms may be reappointed.

(4) Members of the library board shall receive no compensation.

(c) Meetings. The library board shall meet at least six times a year and every meeting of the board shall be publicized in advance and shall be open to the public.

(d) Officers. The library board shall, at its first meeting after July 1, 1977, and at least annually thereafter elect a chairman and a chairman pro tem. The chairman shall preside over the meetings of the board. The head librarian, or his authorized designee, shall serve as secretary to the library board and shall keep accurate records of all board meetings which records shall be made available to the city administrator, city council and interested public upon request. (Ord. 84-35 §§1, 2, 1984; Ord. 77-57 §1, 1977; Ord. 72-30 §3, 1972).

2.36.040 Board--Responsibilities.

The library board shall have the following responsibilities:

(1) To represent the library needs of the community and communicate those needs to the city council;

(2) To recommend library policies as deemed desirable in the operation and utilization of library facilities to the council;

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(3) To encourage and support active volunteerism in support of the use and improvement of library facilities;

(4) To advise, as the council may request, in furtherance of the goal to provide the best library service to the public as possible within the constraints of available resources, space and manpower. (Ord. 91-20 §1, 1991: Ord. 77-57 §2, 1977: Ord. 72-30 §4, 1972).

2.36.050 Donated funds.

All funds donated to the city for library purposes shall be subject to the same rules, regulations and expenditure control as applicable to appropriated funds; provided, however, that such donated funds shall be accounted for under the caption of "public library donations," and such funds shall be subject to expenditure only for the purposes for which donated, except that funds received from donors without specific limitations as to use may be used for general library purposes. (Ord. 72-30 §5, 1972).

2.36.060 Fees.

(a) Users and patrons who reside in or have their business in the city limits of Tigard shall not be required to pay a library privilege fee, but shall be liable to pay such fines or late charges as may be prescribed by resolution of the council.

(b) All fees and charges received shall be accounted for as general fund receipts under the heading of "public library." (Ord. 84-35 §3, 1984: Ord. 76-55 §1, 1976: Ord. 72-30 §6, 1972).

* For statutory provisions enabling a city to establish, equip and maintain a free library, see ORS 357.410.■

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Chapter 7.100. EXCLUSION FROM TIGARD PUBLIC LIBRARY

- 7.100.10 Exclusion from Tigard Public Library
- 7.100.20 Persons Authorized to Issue Exclusion or Warning Notices.
- 7.100.30 Issuance of Exclusion Notices or Warning Notices.
- 7.100.40 Right of Appeal.
- 7.100.50 Variances.

7.100.10 Exclusion from Tigard Public Library

A. A person is subject to exclusion from the Tigard Public Library for a period of up to ninety (90) days in the event they have been arrested and/or convicted for any of the following conduct:

1. Assault as defined in ORS Chapter 163 (1995) in and/or around the Tigard Public Library;
2. Stalking as defined in ORS Chapter 163 (1995);
3. Theft as defined in ORS Chapter 164 (1995) of Tigard library materials;
4. Criminal mischief as defined in ORS Chapter 164 (1995);
5. Any of the graffiti-related offenses as defined in ORS Chapter 164 (1995) involving publicly owned structures within the city limits of Tigard;
6. Wilful detention of library property as defined in ORS 357.975 (1995);
7. Riot, disorderly conduct, or harassment as defined in ORS 166.015, 166.025, 166.065 (1995);

8. Possession of a firearm or dangerous weapon in a public building as prohibited by ORS 166.370 (1995);

9. Menacing as defined in Tigard City Code Section 7.20.020;

10. Recklessly endangering another person as defined in Tigard City Code 7.20.030;

11. Harassment as defined in Tigard City Code 7.20.040;

12. Criminal Trespass as defined in ORS 164.243 to 164.265 (1995)

B. In addition to the above, a person is subject to exclusion or may otherwise have their library privileges restricted or suspended for a period of up to ninety (90) days in the event they, (or a person under their control or direction) has been issued at least two (2) Tigard Library warning notices within any ninety (90) day period for any of the following conduct:

1. Sleeping using bedding, sleeping bag or other sleeping matter in the Tigard Public Library unless such use has been approved in advance by the Director of Library Services;

2. Use of Tigard Public Library facilities and/or equipment for activities unrelated to the purposes of the Library as those purposes may be determined by the Tigard Library Board.

3. Loud or excessive noise or use of amplified recording or sound production equipment including but not limited to radios, tape recorders, compact disc (CD) players such that the sound produced thereby is audible five (5) feet from the device unless such use has been approved in advance by the Director of Library Services.

C. As used in subsection (A) above, the term "library privileges" means the ability to obtain the free use of any printed material,

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pictures, sound recordings or symbols as may be kept in whatever form or manner, be it owned or controlled by the Tigard Public Library or other public or private libraries with which Tigard may through agreement or otherwise have access. (Ord. 96-15)

7.100.20 Persons Authorized to Issue Exclusion or Warning Notices.

The Chief of Police and the Director of Library Services are hereby designated as the persons-in-charge of the Tigard City Library for purposes of issuing exclusion notices in accordance with this Chapter. Either the Chief or the Director of Library Services may authorize other Police or Public Library personnel to issue exclusion notices consistent with this Chapter and, in addition to the ability to authorize personnel issuance of exclusion notices under this Chapter, the Director of Library Services may also authorize personnel under his or her direction and control to issue Tigard Public Library Warning Notices. (Ord. 96-15)

7.100.30 Issuance of Exclusion Notices or Warning Notices.

At the time of the arrest of an individual for any of the conduct(s) identified in TCC Section 7.100.10 A, (or within thirty (30) calendar days thereafter) the arresting officer, the Chief of Police or the Director of Library Services (or such other person(s) as either the Director of Library Services or Chief may have authorized) may issue a written exclusion notice excluding the person from the Tigard Public Library. The notice shall specify that the person is to be excluded from the Tigard Public Library, the period of the exclusion, the time the exclusion is to commence as well as contain information concerning the right to appeal the exclusion notice to the Civil infractions officer as provided for under Chapter 1.17 of this Code. The person to whom the exclusion notice is issued shall sign a written acknowledgment of the receipt of the exclusion notice; if the person refuses to so sign, the arresting officer shall make a written record of the refusal.

At the time of the occurrence of any conduct identified in TCC Section 7.100.10A (or within thirty (30) calendar days thereafter) the Director of Library Services (or such other Library personnel as the Director of Library Services from time to time may authorize) may issue a written Tigard Library Warning Notice. The notice shall specify that in the event a second notice is issued to the individual within the time specified in TCC Section 7.100.10B, that person shall be subject to exclusion from the Tigard Public Library and/or lose such other privileges as the Director of Library Services may in their discretion determine to be appropriate for a period of up to ninety (90) days. The Warning Notice shall also contain information concerning the right of the individual to seek its vacation by appealing to the Director of Library Services within five (5) days of its issuance. (Ord. 96-15)

7.100.40 Right of Appeal.

The individual to whom an exclusion notice is issued shall have the right to an appeal from the issuance of the notice.

A. An appeal of the exclusion must be filed, in writing, within five (5) calendar days of the notice's issuance with either the office of the Director of Library Services or the Chief of Police. The notice of appeal shall state the following:

1. the appellants name;
2. their address and a telephone number where they can be reached;
3. a concise statement as to why the issuance of the exclusion notice was in error; and,
4. attach a copy of the notice of exclusion appealed from.

A hearing on the appeal shall be had as provided for in Chapter 1.17 of this Code and take place no more than ten (10) calendar days after

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the filing of the appeal, except in the event the Civil Infractions Officer determines otherwise.

B. The exclusion shall not take effect during the pendency of the appeal. In the event no appeal is properly and timely filed, then the exclusion shall take effect on the sixth calendar day following the issuance of the notice.

C. The City shall have the burden to show by a preponderance of evidence that the exclusion is based on conduct enumerated in TCC Section 7.100.10A or is based on the issuance of two Tigard Public Library Warning Notices for the conduct Identified in TCC Section 7.100.10B. A determination by a court of competent jurisdiction that the arresting officer had probable cause to effect the arrest of the individual for the conduct used as the basis of the exclusion shall be prima facie evidence that the exclusion is well founded.

D. Copies of any and all documents in its control which are intended to be used by the City at the hearing shall be made available to the appellant at least two (2) days in advance of the hearing. (Ord. 96-15)

7.100.50 Variances.

Variances from the exclusion may be granted at any time during the exclusion by either the Chief of Police or the Director of Library Services. (Ord. 96-15)■

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Tigard Municipal Code Update - Building Appeals Board

PREPARED BY: Gary Lampella DEPT HEAD OK CITY MGR OK

ISSUE BEFORE THE COUNCIL

Should Chapter 2.09 of the TMC, Building Appeals Board, be revised or retained in its current format? Should Council appoint Building Appeals Board members?

STAFF RECOMMENDATION

No change to the TMC. Retain the local Building Appeals Board in its current format and appoint Building Appeals Board members.

INFORMATION SUMMARY

On October 10, 1995, Ordinance No. 95-21 was enacted by Council adding Chapter 2.09 to the TMC, which established the Building Appeals Board. The Council appointed thirteen members by Resolution No. 95-65 on December 19, 1995 with a term limit of four (4) years. There has been one appeal since the formation of the Building Appeals Board and the members' terms have since expired. Oregon Administrative Rules have been changed as a result of the passage of Senate Bill 587 during the 1999 Legislative Session. OAR 918-001-0130 allows an alternate appeal procedure. Persons aggrieved by a decision of a local building official are now allowed to choose whether to appeal through the local appeals process or appeal to the appropriate specialty code chief at the State level. Persons aggrieved by the decision of either of these two appeal processes could still appeal to the appropriate advisory board as allowed by ORS 455.690.

OTHER ALTERNATIVES CONSIDERED

Eliminate the local Appeals Board and rely on the State of Oregon Building Codes Division's specialty code chiefs to make a final determination regarding a decision of the City of Tigard Building Official.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

#1 - Oregon Administrative Rule 918-001-0130 and Oregon Revised Statute 455.690.

FISCAL NOTES

N/A.

OAR 918-001-0130

Alternative Appeal Procedure

This rule allows persons aggrieved by a decision of a local building official or designee to choose whether to appeal through the local appeals process, or through the division. If the appeal relates to an inspection pursuant to the **Electrical Specialty Code**, the appeal process set forth in OAR 918-251-0040 shall be followed.

(1) A person aggrieved by the decision of a local building official or designee may, in lieu of using the local appeals process, appeal to the appropriate specialty code chief. The aggrieved person may not change from one process to the other on the same issue. Such appeal shall:

(a) Be made within 30 days of the municipality decision; and

(b) Include the name of the person making the appeal, a written description of the appeal, the name of the authority having jurisdiction, the specific code or codes involved, and whether a "stop work" order has been issued; and

(c) Be accompanied by \$20 appeal fee.

(2) Upon receipt of an appeal, the specialty code chief shall seek information from the local building official or designee and any other information necessary to make a decision.

(3) Upon final determination by the chief, the chief shall notify appropriate affected parties in writing.

(4) If the aggrieved person, or the person whose decision generated the appeal, chooses to further appeal the decision of the specialty code chief to the appropriate state advisory board, the person shall:

(a) Request further appeal within 15 days after written notification of the decision of the specialty code chief; and

(b) Provide additional information as needed by the division to process the appeal.

ORS 455.690 Appeal to advisory boards. Any person aggrieved by the final decision of a municipal appeals board or a subordinate officer of the Department of Consumer and Business Services as to the application of any provision of a specialty code may, within 30 days after the date of the decision, appeal to the appropriate advisory board. The appellant shall submit a fee of \$20, payable to the department, with the request for appeal. The final decision of the involved municipality or state officer shall be subject to review and final determination by the appropriate advisory board as to technical and scientific determinations related to the application of the specialty code involved. [Formerly 456.850; 1993 c.744 s.98]